

NOMINATIONS OF RUFUS HAWKINS YERXA,  
CHARLENE BARSHEFSKY, WALTER BROADNAX,  
AVIS LAVELLE, JERRY KLEPNER, DAVID  
ELLWOOD, KENNETH APFEL, BRUCE VLADECK,  
HARRIET RABB, AND JEAN HANSON

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Nominations of Rufus Hawkins Yerxa, ... HE

COMMITTEE ON FINANCE  
UNITED STATES SENATE

ONE HUNDRED THIRD CONGRESS

FIRST SESSION

ON THE

NOMINATIONS OF

RUFUS HAWKINS YERXA TO BE DEPUTY U.S. TRADE REPRESENTATIVE;  
CHARLENE BARSHEFSKY TO BE DEPUTY U.S. TRADE REPRESENTATIVE;  
WALTER D. BROADNAX TO BE DEPUTY SECRETARY, HHS; AVIS LAVELLE  
TO BE ASSISTANT SECRETARY FOR PUBLIC AFFAIRS, HHS; JERRY D.  
KLEPNER TO BE ASSISTANT SECRETARY FOR LEGISLATION, HHS; DAVID  
T. ELLWOOD TO BE ASSISTANT SECRETARY FOR PLANNING AND EVALUA-  
TION, HHS; KENNETH S. APFEL TO BE ASSISTANT SECRETARY FOR MAN-  
AGEMENT & BUDGET, HHS; BRUCE VLADECK TO BE ADMINISTRATOR,  
HEALTH CARE FINANCING ADMINISTRATION, HHS; HARRIET S. RABB TO  
BE GENERAL COUNSEL, HHS; AND JEAN E. HANSON TO BE GENERAL  
COUNSEL, DEPARTMENT OF THE TREASURY

MAY 19, 1993



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# CONTENTS

## OPENING STATEMENTS

	Page
Moynihan, Hon. Daniel Patrick, a U.S. Senator from New York, chairman, Committee on Finance .....	2
Grassley, Hon. Charles E., a U.S. Senator from Iowa .....	11
Chafee, Hon. John H., a U.S. Senator from Rhode Island .....	13
Durenberger, Hon. Dave, a U.S. Senator from Minnesota .....	15
Conrad, Hon. Kent, a U.S. Senator from North Dakota .....	16
Bradley, Hon. Bill, a U.S. Senator from New Jersey .....	19
Riegle, Hon. Donald W., Jr., a U.S. Senator from Michigan .....	20
Hatch, Hon. Orrin G., a U.S. Senator from Utah .....	29

## COMMITTEE PRESS RELEASE

Finance Committee to Consider Nominations .....	1
---	---

## ADMINISTRATION NOMINEES

Yerxa, Rufus Hawkins, nominated to be Deputy U.S. Trade Representative ....	2
Barshefsky, Charlene, nominated to be Deputy U.S. Trade Representative .....	3
Broadnax, Walter, nominated to be Deputy Secretary, HHS .....	27
Ellwood, David, nominated to be Assistant Secretary for Planning and Eval- uation, HHS .....	30
Klepner, Jerry, nominated to be Assistant Secretary for Legislation, HHS .....	31
LaVelle, Avis, nominated to be Assistant Secretary for Public Affairs, HHS ....	32
Apfel, Kenneth, nominated to be Assistant Secretary for Management and Budget, HHS .....	33
Vladeck, Bruce, nominated to be Administrator of the Health Care Financing Administration, HHS .....	34
Rabb, Harriet, nominated to be General Counsel, Department of Health and Human Services .....	36
Hanson, Jean, nominated to be General Counsel, Department of the Treas- ury .....	53

## ALPHABETICAL LISTING AND APPENDIX MATERIAL SUBMITTED

Apfel, Kenneth:	
Testimony .....	33
Prepared statement .....	57
Biographical .....	58
Letter to Senator Moynihan from the U.S. Office of Government Ethics, dated May 3, 1993 .....	60
Responses to questions from Senator Hatch .....	61
Barshefsky, Charlene:	
Testimony .....	3
Prepared statement .....	63
Biographical .....	66
Letter to Senator Moynihan from the U.S. Office of Government Ethics, dated April 30, 1993 .....	74
Letter to Senators Moynihan and Riegle, dated May 19, 1993 .....	75
Responses to questions from:	
Senator Packwood .....	82
Senator Danforth .....	85
Senator Riegle .....	85
Senator Wallop .....	92

Bradley, Hon. Bill:	
Opening statement .....	19
Broadnax, Walter D. :	
Testimony .....	27
Prepared statement .....	93
Biographical .....	94
Letter to Senator Moynihan from the U.S. Office of Government Ethics, dated May 5, 1993 .....	100
Responses to questions from Senator Hatch .....	101
Chafee, Hon. John H.:	
Opening statement .....	13
Conrad, Hon. Kent:	
Opening statement .....	16
Durenberger, Hon. Dave:	
Opening statement .....	15
Ellwood, David:	
Testimony .....	30
Biographical .....	103
Letter to Senator Moynihan from the U.S. Office of Government Ethics, dated May 4, 1993 .....	108
Responses to questions from:	
Senator Hatch .....	109
Senator Wallop .....	112
Grassley, Hon. Charles E.:	
Opening statement .....	11
Hatch, Hon. Orrin G.:	
Opening statement .....	29
Hanson, Jean:	
Testimony .....	53
Biographical .....	114
Letter to Senator Moynihan from the U.S. Office of Government Ethics, dated May 13, 1993 .....	117
Klepner, Jerry:	
Testimony .....	31
Prepared statement .....	118
Biographical .....	119
Letter to Senator Moynihan from the U.S. Office of Government Ethics, dated April 15, 1993 .....	121
Responses to questions from Senator Hatch .....	122
LaVelle, Avis:	
Testimony .....	32
Prepared statement .....	123
Biographical .....	124
Letter to Senator Moynihan from the U.S. Office of Government Ethics, dated May 15, 1993 .....	127
Moynihan, Hon. Daniel Patrick:	
Opening statement .....	2
Letter from President Clinton, dated April 21, 1993 .....	128
Rabb, Harriet:	
Testimony .....	36
Prepared statement .....	129
Biographical .....	130
Letter to Senator Moynihan from the U.S. Office of Government Ethics, dated April 15, 1993 .....	133
Riegle, Hon. Donald W., Jr.:	
Opening statement .....	20
Vladeck, Bruce:	
Testimony .....	34
Prepared statement .....	134
Biographical .....	135
Letter to Senator Moynihan from the U.S. Office of Government Ethics, dated May 3, 1993 .....	151
Responses to questions from:	
Senator Packwood .....	152
Senator Hatch .....	154

	Page
Yerxa, Rufus Hawkins:	
Testimony .....	2
Biographical .....	159
Letter to Senator Moynihan from the U.S. Office of Government Ethics, dated May 7, 1993 .....	161
Letter to Senators Moynihan and Riegle, dated May 20, 1993 .....	162





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BROADNAX, AVIS LAVELLE, JERRY D.  
KLEPNER, DAVID T. ELLWOOD, KENNETH S.  
APFEL, BRUCE VLADECK, HARRIET S. RABB,  
AND JEAN E. HANSON**

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**WEDNESDAY, MAY 19, 1993**

**U.S. SENATE,  
COMMITTEE ON FINANCE,  
*Washington, DC.***

The hearing was convened, pursuant to notice, at 9:30 a.m., in room SD-215, Dirksen Senate Office Building, Hon. Daniel Patrick Moynihan (chairman of the committee) presiding.

Also present: Senators Baucus, Bradley, Mitchell, Pryor, Riegle, Breaux, Conrad, Packwood, Chafee, Durenberger, Grassley, Hatch, and Wallop.

[The press release announcing the hearing follows:

[Press Release No. H-23, May 18, 1993]

**FINANCE COMMITTEE TO CONSIDER NOMINATIONS**

WASHINGTON, DC—Senator Daniel Patrick Moynihan (D-NY), Chairman of the Senate Committee on Finance, announced today that the Committee will hear from nominees for several positions within the Clinton administration.

The hearing will begin at 9:30 a.m. on Wednesday, May 19 in room SD-215, Dirksen Senate Office Building.

The nominees to be considered at that time are:

**UNITED STATES TRADE REPRESENTATIVE**

Rufus Hawkins Yerxa, Deputy U.S. Trade Representative; Charlene Barshefsky, Deputy U.S. Trade Representative.

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

Walter D. Broadnax, Deputy Secretary; Avis LaVelle, Assistant Secretary for Public Affairs; Jerry Klepner, Assistant Secretary for Legislation; David T. Ellwood, Assistant Secretary for Planning and Evaluation; Kenneth S. Apfel, Assistant Secretary for Management & Budget; Bruce Vladeck, Administrator, Health Care Financing Administration; Harriet Rabb, General Counsel.

**DEPARTMENT OF THE TREASURY**

Jean E. Hanson, General Counsel.

**OPENING STATEMENT OF HON. DANIEL PATRICK MOYNIHAN,  
A U.S. SENATOR FROM NEW YORK, CHAIRMAN, COMMITTEE  
ON FINANCE**

The CHAIRMAN. A very good morning to our distinguished nominees and their guests and to the other persons present. This is a hearing on nominations that have been sent to the Senate by the President and referred to the Committee on Finance.

We are under some urgency about some of these appointments because of the duties involved and also in other cases because of the length of time it has taken to have the nominations sent forward, as the positions have been empty for the longest while. But we will proceed as on our witness list.

The CHAIRMAN. Senator Baucus, did you want to say anything?

Senator BAUCUS. No statement, Mr. Chairman.

The CHAIRMAN. Well, then a very good morning. We have first to hear Ambassador Yerxa, who is to be Deputy Trade Representative, and Charlene Barshefsky, who is also to be Deputy Trade Representative. We welcome you both.

Have either of you a spouse or such on hand?

Mr. YERXA. Mr. Chairman, my wife and two small children were on their way. I think they are lost in traffic somewhere on Constitution Avenue, but I hope they will arrive.

The CHAIRMAN. The Clinton administration will see that is all reserved.

Ms. BARSHEFSKY. Mr. Chairman, my husband and two daughters are here, if I may introduce them to you.

The CHAIRMAN. Yes, good morning. Would you introduce them? Young ladies, stand up now.

Ms. BARSHEFSKY. My daughter, Mari, who is 10; Devra who has just turned 5 years old; and my husband, Ed Cohen.

The CHAIRMAN. Good morning to you all. We would like you to make your statements relatively brief. Ambassador, you come to us, having as it were just left us, and having been continuously involved with trade negotiations for about 4 years now, would it not?

Mr. YERXA. Yes.

The CHAIRMAN. Why don't you just go ahead. First, you, sir, and then Ms. Barshefsky.

**STATEMENT OF RUFUS HAWKINS YERXA, NOMINATED TO BE  
DEPUTY U.S. TRADE REPRESENTATIVE**

Mr. YERXA. Thank you, Mr. Chairman. I will be very brief. I know you are under some time constraints. First, let me just say that I am honored that the President and Ambassador Kantor have asked me to serve as a Deputy Trade Representative.

I know how important this Agency is to your committee and to the Congress, having served both as congressional staff and as a U.S. trade negotiator, I know that it is very important that trade policy be a shared responsibility of the Congress and the President, and that its proper execution depends on constant cooperation and communication between the two branches of Government.

I have tried to maintain that relationship in the past. And I would pledge to you and the committee to do so in the future, Mr. Chairman.

Obviously, we have a very busy negotiating agenda and I am aware of how sensitive many of these issues are to the committee. If I am confirmed, I have been asked by Ambassador Kantor to have responsibilities for numerous matters, including Uruguay Round and GATT affairs, NAFTA, European and North American affairs, and such sectoral issues as steel and agriculture.

My colleague Ambassador-designate Barshefsky would have principal responsibility for Japan, China, the Asia Pacific, Latin America and would also handle intellectual property, investment issues and sectoral negotiations in such areas as autos, telecommunications and semiconductors.

Mr. Chairman, just very briefly, the administration has presented its views and proposals to you on renewal of the first track authority. I know you are hearing from Ambassador Kantor tomorrow on that issue, so I will not go into any great detail on that today. But we are grateful for the prompt attention that the committee is giving to this matter.

Also, I am leaving for Canada today for the next round of negotiations on the NAFTA side agreements. We have been consulting with Senators and staff on those matters and will continue to do so as we proceed toward final supplemental agreements.

I see the job of a trade negotiator as one that requires firmness, resolve and a clear sense of direction. It also requires knowledge of your field and knowledge of your counterparts across the table. I hope that the committee will find me qualified in those respects. I would be honored to receive the Senate's approval for this assignment.

These are difficult and critical days for U.S. trade policy and I know the decisions we make will shape our economic future.

I know the committee plays a vital leadership role in that regard. I have great respect for the committee and look forward to working with you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Ambassador.

Ms. Barshefsky?

#### **STATEMENT OF CHARLENE BARSHEFSKY, NOMINATED TO BE DEPUTY U.S. TRADE REPRESENTATIVE**

Ms. BARSHEFSKY. Thank you, Mr. Chairman. Mr. Chairman and Senator Baucus, it is an great honor and privilege to appear before you today as President Clinton's nominee for Deputy U.S. Trade Representative.

This is a special honor for me because I have spent nearly two decades practicing law and counseling clients in the international trade field, spanning the gamut from advocacy, to the development of global trade strategies for domestic companies, to commercial counseling and the conduct of intensive negotiations.

Mr. Chairman, I have long looked forward to the opportunity to serve my country in the public sector. I am a first generation American. My parents instilled in me a strong sense of public responsibility and civic duty.

Throughout my career in the private sector, I have tried to uphold these values through various activities in the Bar and Bar Associations, the U.S. Court of International Trade, and through var-

ious activities with institutions of higher learning in the Washington area. An opportunity for public service is an honor of the highest order and the culmination of a life-long desire.

Throughout my career in the private sector, I have represented the commercial interests of my clients. I have had the advantage of representing domestic and foreign companies and have a strong appreciation of the needs of business in the international arena.

I also have a sophisticated understanding of the broader policy objectives that guide the interests of the United States in international markets. This experience will be invaluable as I pursue the challenges that await me as Deputy USTR should you confirm me for that position.

In concluding, Mr. Chairman, I would like to address the issue of ethical and professional standards about which I feel so strongly. I am committed to the highest standards of ethical conduct for government officials. In that spirit, I have taken formal steps to ensure that no prior affiliation or representation will affect my independent judgment or create even the appearance of a conflict of interest.

In practical terms, my recusal means that I will not participate in particular matters involving the Government of Canada, the North American Free Trade Agreement, the Canadian softwood lumber industry and the British steel industry.

My primary responsibilities at USTR, as Ambassador Yerxa has indicated, will include Japan, China, the rest of Asia and Latin America. My recusals will thus in no way interfere with my ability to carry out fully my responsibilities or diminish in any way the effectiveness of USTR.

Mr. Chairman, and Senator Baucus, thank you very much for the opportunity to appear before you this morning. I look forward to working closely with you and the members of the committee and I would be pleased to respond to any questions that you may have.

[The prepared statement of Ms. Barshefsky appears in the appendix.]

The CHAIRMAN. Thank you.

Ms. Barshefsky, this is a matter of usage that is in dispute, but I think the general sense at this point is that you are a second generation American. Where were you born?

Ms. BARSHEFSKY. I was born here.

The CHAIRMAN. Right. And your parents were born elsewhere. But they came here?

Ms. BARSHEFSKY. Correct.

The CHAIRMAN. They were the first generation here. [Laughter.] It is just a detail.

Ms. BARSHEFSKY. I agree with you.

The CHAIRMAN. You are doing very well. [Laughter.]

Ms. BARSHEFSKY. Thank you.

Mr. YERXA. Mr. Chairman, if I could just briefly say I see my family has arrived.

The CHAIRMAN. Oh, they have arrived.

Mr. YERXA. I simply wanted to introduce my wife, Barbara McSweeney and my two children, Gavin and Haley.



The CHAIRMAN. Good morning, Ms. McSweeney. Gavin, stand up. Good, a tall fellow. And put that little sister of yours on your mommy's lap. Very well. Now we have heard from the public.

Senator BAUCUS?

Senator BAUCUS. Ambassador Yerxa, one question I have is in regard to the evolution of trade laws along with other laws, environmental, labor and whatnot. Not too long ago I was talking with Arthur Dunkel, Director General of the GATT, who told me that he felt—this was over a year ago, about 2 years ago—that the next round would be a “green round.”

If the next GATT round, assuming the present Uruguay Round, is successful, is going to be the Green Round, then necessarily there has to be some conjunction, some convergence, of trade laws and environmental laws.

I would just like your views as to how far we should go in that direction and if you would also just comment on the degree to which the environment side agreement in NAFTA is a good precedent for future efforts in that area.

Mr. YERXA. I would be glad to, Senator Baucus. I know that the environment is a key area of concern to you and other members of the committee; and, of course, it is particularly relevant in your other capacity as Chairman of the Committee on Environment.

I want to first of all say that I hope we both survive the next GATT round. The present one has taken us 7 years and is obviously a long and drawn out process, with still difficult decisions to make in order to bring about success.

But I think in future GATT negotiations we are going to have to address the need for finding the appropriate intersection between trade policy, trade agreements and environmental protection, as well as certain other issues of domestic policy and regulation that are critical in a globalized economy. For example, competition policy.

I think the GATT cannot afford to ignore the need for an appropriate balance between these various issues. I think the side agreements that we are pursuing in the NAFTA, and particularly the side agreement on the environment, does represent a very credible step towards a closer integration of these two policies.

Of course, it arises in the context of a free trade arrangement and so there are, perhaps, some different features. But I think it can serve as a model for the kind of arrangements we could make in the future.

Senator BAUCUS. Well, the main point here is that the lines that distinctly lineates different categories is now blurred because the world is becoming smaller each day and capital travels at the speed of light. It does not respect national boundaries. Businessmen are going to try to get the best deal they can worldwide, wherever. There is some nationalism. One sometimes wonders how much left.

The point with respect to the environment is really two-fold. It is not only to help raise environmental standards worldwide. It is also to more level the economic playing field. Because, obviously, in the case of Mexico, for example, if Mexico is not enforcing its environmental laws, that gives a competitive advantage to Mexican companies, vis-a-vis American companies.

So it is the economic component. It is the trade component of linking environment to trade policy, which is becoming more and more critical with each passing day. That is why I think it is very, very important for us to not only pursue the objectives of the environmental side agreement in NAFTA, but also future trade agreements, look at various ways to level the economic playing field so that other countries do not have an economic advantage.

Ms. Barshefsky, as I listen to your recusal, it sounds like you are going to have a hard time representing us.

The CHAIRMAN. Would my colleague allow me at this point to say that we have a letter.

Senator BAUCUS. Right.

The CHAIRMAN. To Laura Sherman in the Office of the General Counsel, a letter of recusal, which I would like to place in the record.

[The letter appears in the appendix.]

Senator BAUCUS. For example, you have recused yourself from representing Canada or NAFTA, Nippon Steel and I guess Canadian softwood issues. Even though you are representing the United States with respect to Asian negotiations, would there be a time in your discussions where you would find yourself in a fairly difficult position? Certain subjects come up. It might be Canada, it might be NAFTA, and you would have to say "oh, I have to get out of the room," and so forth. Is that going to be a problem?

Ms. BARSHEFSKY. May I respond, Senator? No, I do not see this as a problem at all. As Ambassador Yerxa has indicated, our rough division of responsibility is that Ambassador Yerxa will move north and east. I will move south and west. And I think we are going to meet somewhere, with our sense of direction, in Detroit.

The CHAIRMAN. Is Detroit north or south of Canada? [Laughter.]

Is Detroit north or south of Canada?

Ms. BARSHEFSKY. I think the answer is second generation. Am I right?

The CHAIRMAN. Detroit is north of the Canadian border.

Ms. BARSHEFSKY. Detroit is north. That is correct.

Senator, for someone who has been in this field as long as I have and for the scope of my responsibility at USTR, my recusals are surprisingly narrow and quite limited. I have no recusals with respect to the GATT round. The recusals are quite limited.

I will take myself out of Canadian lumber matters, as well as matters affecting the Canadian Government. There is no problem in my leaving the room when these discussions take place. Indeed, I am not in the room to begin with when the discussions of these issues take place.

I take recusals very seriously to mean that I am to have no involvement of any type in these matters. With respect to Latin America, with respect to China, Japan, and Asia generally, I have no recusals and will be actively involved in pursuing U.S. interests in those important regions.

Senator BAUCUS. There is a part in one of the papers, it might have been the Wall Street Journal, that you represented the Canadian Wheat Board. Is that correct?

Ms. BARSHEFSKY. That is not correct. I do not represent the Canadian Wheat Board. Nor, as that article stated, do I represent

Nippon Steel. These are clients of my law firm. They are not clients for whom I have done any work.

Senator BAUCUS. Your thoughts about Japan policy. I don't know if this country yet has a Japan policy. What would a Japan policy be?

Ms. BARSHEFSKY. As you know, President Clinton and Prime Minister Miyazawa met and in that meeting we took what I think is a first very important step toward the formulation of a Japan policy. That is, the President indicated to Prime Minister Miyazawa that we will no longer subordinate our economic interests to national policy concerns. If we think of our relationship with Japan as a three-legged stool—where one leg is economic, one leg is global, and one leg is national security—it is the economic leg that is broken and threatens the entire stool.

This is the first time, to my knowledge, of a President making clear that our economic interests will be front and center and that our economic concerns must be addressed. This is the first important step in setting the United States-Japan relationship.

The administration has been actively involved in formulating a Japan policy. Of course, we will not go forward with this until we have consulted with the Senate Finance Committee, and other Members of Congress as well, to be sure that there is a full agreement that we are moving in the right direction.

That policy will consist of several elements. First of all, of course, there will be an element dealing with Japan's unacceptable surpluses. The economic asymmetry between the United States and Japan is of extraordinary proportion. And the economic asymmetry between Japan and the rest of the world is now of such extraordinary proportion, that these surpluses must come down.

Second, there will be various sectoral and structural talks with Japan. What will characterize these talks is a demand by the United States that we have monitorable progress in the negotiations with monitorable results.

If we are not enhancing commercial opportunities for American exporters, we are not doing our job.

Senator BAUCUS. Will the extension of Super 301 be helpful in our efforts?

Ms. BARSHEFSKY. I think the extension of Super 301 can be helpful. As you know, the administration supports an extension of Super 301. Ambassador Kantor has testified before this committee a number of times that he supports extension of Super 301. As I understand it, the issue is the vehicle, not whether Super 301 itself would be an important trade tool.

Of course, we have other trade tools as well—Section 301, Title VII, Section 306—many of which have already been used with respect to our Japan policy, I think to good effect.

Senator BAUCUS. The point is, Super 301, you think would be helpful?

Ms. BARSHEFSKY. I think it would be helpful, yes.

Senator BAUCUS. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, sir.

Could I say to Mr. Yerxa that Senator Baucus' question—I heard you say competitiveness and I asked what that meant. Then when



he raised the context of the environmental legislation, if one side, one trading party, enforces regulations and the other does not, there is at least a possible competitive disadvantage that arises.

Of course, that is precisely the theory of international labor conventions. And we had some little shaky times here earlier in the year when representatives of the Office said we do not negotiate binding agreements about labor matters. Labor matters have no relation to trade matters, which is curious historically.

The modern era of trade agreements begins with labor conventions. The idea being that in the throes of the late 19th century in Europe, but here too, that if you enacted the best labor legislation, social legislation, generally, you put yourself at a competitive disadvantage. This probably was not true. But it is intuitive. It sounds right.

So the first international conference on labor standards was convened by Bismarck in 1890. And to find representatives of the "liberal Democratic administration" saying what is this stuff, we have nothing to do with trade, was a bit of a surprise.

I was just going to say we have heard a great deal about the environmental agreement here with Mexico, and Senator Baucus reflects that concern. He is our principal spokesman in the Senate for such matters, on one side of the aisle. There are others, of course.

But I hear nothing about the labor agreement. Just this last week Mr. Mazur, head of the International Ladies Garment Workers Union, has been to see me about this. And we talked, for example, about how Samuel Gompers in his last days was in Mexico negotiating with the General Federation there and was stricken and got across the border to die in the United States. He was first generation, I would say, Ms. Barshefsky. [Laughter.]

How is that labor agreement going? Because I would have to say to you, there is just as much interest in this body from that aspect as on the aspect of the environment.

Mr. YERXA. First, Mr. Chairman, let me say that whoever it was that said there is no relationship between labor and trade certainly wasn't speaking for Ambassador Kantor and does not reflect his views or mine. I think there is obviously a very strong connection, and you have given us a historical context to support the view that USTR has that both labor and environment policies are critical to liberalization of trade in the world.

I know that if you do not have basic respect for labor rights and labor standards it creates commercial disadvantages for U.S. producers who have to face higher standards here in the United States. But secondly, it creates an unsound situation for the world economy which ought to be addressed.

The labor supplemental agreement stands as a proposed U.S. agreement of equal stature to the environment agreement. We are negotiating on both of these side agreements in Canada this week. There is a great deal of parallelism between the structure of the two agreements we have set up, with a North American Commission for labor as well as for the environment, and with the same kind of secretariat structure and powers.

I think it is clear that a number of mechanisms of U.S. law reflect the need to look at a country's labor practices and its respect for workers right. Two examples are the GSP law and Section 301



itself. And this administration is prepared to use those authorities and is, in fact, examining a number of countries where we believe labor practices have to be addressed.

The CHAIRMAN. Fair enough. Could I just say, not to be in any way difficult, we know the respect with which you are held, but the GATT is the aftermath. It is an informal arrangement that is gradually growing more structured. That came about when this Finance Committee rejected the proposal to establish an International Trade Organization within the United Nations.

The United Nations, of course, followed on from the League of Nations. It was the successor organization. What was the one body in the League of Nations the United States joined?

Mr. YERXA. I believe it was the labor organization. I am not sure what it was called.

Senator BAUCUS. Your daughter is nodding in agreement, I want to add.

The CHAIRMAN. She agrees.

Now that is a little troubling. You are not sure what the international labor organization was called.

Mr. YERXA. Well, I know the current one is the ILO. But I do not know what it was called under the League of Nations.

The CHAIRMAN. It is the same one.

Mr. YERXA. I see.

The CHAIRMAN. And in GATT you are now using its original building. The ILO built its building on Lake Lemann before the Palazzo got put up.

Mr. YERXA. Yes, I am aware of that. In fact, as you mount the stairs of the GATT you see very impressive mosaics of people at work in all sorts of countries.

Senator CHAFEE. Keep going. Is there one of somebody we know well there?

Mr. YERXA. I think I saw the Chairman there on one of them, yes.

The CHAIRMAN. They all have sledgehammers.

All right. I have just one question. Then we have two other colleagues, Senators, who have joined us. Again, not to be difficult, but, Ms. Barshefsky, you said of our relations with Japan that they were a three-legged stool and one leg was broken, the economic leg. That is a rather stark image.

But then you said of the trade imbalance with Japan, you said it must come down. Now what if it does not come down? Do we bomb Tokyo?

Ms. BARSHEFSKY. Senator, you are raising a very—

The CHAIRMAN. What do you mean by must?

Ms. BARSHEFSKY. By must I merely—

The CHAIRMAN. That is a strong word. That is an imperative term. You must do this.

Ms. BARSHEFSKY. It is intended to be an imperative term, that is to underscore—

The CHAIRMAN. If the Japanese do not do something, we will do something?

Ms. BARSHEFSKY [continuing]. To the Japanese the seriousness with which its global surplus is viewed. This is not—

The CHAIRMAN. What if the Japanese come back to us and say, now, you must learn to make an automobile again like you used to.

Ms. BARSHEFSKY. The Japanese did come back to us, Senator, in the SII talks, and said to us, you do not save enough, you do not educate your people well enough. Your budget deficits are too high. And this administration is addressing precisely those issues.

The CHAIRMAN. Are we responding to the Japanese in that regard? They have told us you must improve your SATS?

Ms. BARSHEFSKY. Japan, having called these issues to our attention over a number of years, has made an impression on the United States and on economic policymakers. There is a certain truth to what they are saying about the United States.

Is the United States responding only to Japan? No. The United States is doing this because we must get our economic house in order. But the Japanese presented these issues to us as imperatives.

The CHAIRMAN. Are you seriously telling this committee that the Japanese having instructed us to improve our elementary schools we have set about doing so?

Ms. BARSHEFSKY. I am suggesting that the Japanese indicated to us in very strong terms that it perceived these were issues the United States should address and I am simply stating——

The CHAIRMAN. Wow.

Ms. BARSHEFSKY [continuing]. That we are indicating to the Japanese that we perceive that there are issues which they must also address.

The CHAIRMAN. Well, tell me some other things that trade policy is driving in terms of American domestic policy. What else did the Japanese say? They said we have to work harder, did you say?

Ms. BARSHEFSKY. They have indicated——

The CHAIRMAN. We have to work harder.

Ms. BARSHEFSKY [continuing]. Principally to work harder, to build better products, so on and so forth.

The CHAIRMAN. What does it mean to work harder, Ms. Barshefsky?

Ms. BARSHEFSKY. To become more productive, I suspect.

The CHAIRMAN. To be more productive is to work more efficiently, not harder. You had better be careful. You are going to be negotiating with these people.

Now what else do you have to do? You come back here and you bring a list of things that we have to do for the Japanese have said so?

Ms. BARSHEFSKY. No. Senator, perhaps I am not being as clear as I should be.

The CHAIRMAN. You are not with me, no.

Ms. BARSHEFSKY. So let me restate my position. It is important that Japan appreciate the seriousness with which the U.S. views its global surplus, just as for Japan it was important that the United States recognize the seriousness with which Japan viewed our budget deficit.

That is all I mean, to communicate, a seriousness about these issues.

The CHAIRMAN. Let's be careful about what it is we allow trade negotiators to accept in the way of national norms, imperatives.

Ms. BARSHEFSKY. I agree with that.

The CHAIRMAN. I mean, I would just as soon you not come back from Tokyo with an understanding that by the year 2000 American scores in mathematics and physics shall have risen 15 percentiles, otherwise we can no longer sell them Montana wheat.

Senator BAUCUS. Mr. Chairman?

The CHAIRMAN. Yes, sir.

Senator BAUCUS. Since you mentioned Montana wheat, just very briefly.

The CHAIRMAN. Senator Baucus has to go to a hearing.

Senator BAUCUS. I have to leave now. There are four more nominees the administration has sent up that we are trying to get confirmed.

I might say though that I am unable to be here for the next panel. I would particularly like to speak with Mr. Walter Broadnax and Bruce Vladeck with respect to rural health care as opposed to health care. I note that both of them have New York City experience. I just want to make sure that those people are sensitive to rural health care problems, as well as urban health care.

Senator BRADLEY. Is that New York City or New York City?

Senator BAUCUS. That is New York City. [Laughter.]

The CHAIRMAN. And it happens to be Rochester. There is no point in getting into details. Can I say that Mr. Broadnax, we only received his final papers last evening. So he will not have had a chance to call on anyone. I am going to ask him to. Senator Durenberger has similar concerns and we will take care of them. [Laughter.]

If you just be patient, your daddy will get through it.

Senator Grassley, good morning, sir.

#### OPENING STATEMENT OF HON. CHARLES E. GRASSLEY, A U.S. SENATOR FROM IOWA

Senator GRASSLEY. First of all, I have no questions of either one of you. But you all have a good background. We have a great deal of confidence in what you are doing. We know you have a very difficult job. I suppose if there was just one economic interest I would express to you, it would be the 20 percent of our gross national product that is what we call the food and fiber chain from production by the family farmers which eventually gets to the consumer in the United States or overseas.

A great deal of that production of agriculture does end up overseas. It is 20 percent of the gross national product. It is a great factor to employment.

So I think the strength of American agriculture is very important for the prosperity of the United States. And a great deal of your work in these international agreements, both bilateral as well as multilaterally is going to be very much related to agriculture. I can't say anything more than just express to you things that I know are on your mind, and recommend you maintain a very positive attitude toward Agriculture.

I hope that it is prime, particularly as I measure things from the previous administration in regard to a GATT agreement. The Bush

administration was very definitive that the lynch pin for a favorable GATT agreement was a favorable agreement in agriculture before we moved forward with an agreement at all.

I think that the previous administration compromised that to some extent with what is called the Blair House Agreement. I hope that if there was too much of a compromise in that area—and I do not want to speak with a great deal of certainty, but it is my gut feeling that there was—that you will review it, correct the mistakes of the past administration and still continue to keep agriculture prime in the negotiations as a basis for a GATT agreement.

Because I think unless we do get such a change in particularly the subsidy programs for the European community, that really we are not going to make much progress is freer trade that will benefit the American consumer, benefit the American farmer or, help us with our budget deficit because a large share of that deficit is related to subsidy for agriculture. That would not be necessary if we had freer trade.

Thank you.

Mr. YERXA. Mr. Chairman, could I make one brief comment in response?

The CHAIRMAN. Please. Ambassador, please do.

Mr. YERXA. Obviously, the administration feels that agriculture and agricultural trade is critical to the U.S. economy. U.S. exports of agriculture last year were about \$42 billion. That is really just back to the levels they were before the Soviet grain embargo in 1980.

So we are making some real progress.

The CHAIRMAN. In constant dollars.

Mr. YERXA. In absolute dollars.

The CHAIRMAN. In absolute dollars, wow.

Mr. YERXA. And we are making real progress in expanding our exports of agriculture.

The CHAIRMAN. Well, just to help us all, they are not back at all.

Mr. YERXA. Well, that is true.

The CHAIRMAN. No.

Mr. YERXA. But my basic point is that there are a number of ways that we can advance our interests in open markets for agriculture, addressing the enormous export subsidies that exist around the world.

I realize there are concerns about how far Blair House goes in that regard and how far we can go in the Uruguay Round. Obviously, we want to make all the progress we can in getting the European export subsidies down.

But there are a number of other areas, particularly with respect to processed products and even basic commodities, where open markets in the Asian Pacific region and getting down the variable levy in Europe are absolutely critical. The Uruguay Round is not the only solution, but it does present us with a significant opportunity to make progress in that sense.

The CHAIRMAN. Thank you, Ambassador.

Senator Chafee?



**OPENING STATEMENT OF HON. JOHN H. CHAFEE, A U.S.  
SENATOR FROM RHODE ISLAND**

Senator CHAFEE. Thank you, Mr. Chairman.

First, I would like to say to Ms. Barshefsky that I am disturbed over the situation in Japan regarding the treatment of foreign law firms there. For example, it is my understanding that a foreign law firm in Japan cannot use its own name. You cannot go over as Steptoe & Johnson, or whoever it might be.

To me that seems unfair. I think American firms should be able to go over there. Obviously, when they have achieved an international name and reputation, I think they should be able to use it. If you could take a look at this restriction and the many others. You are probably familiar with them already.

Ms. BARSHEFSKY. Yes, sir.

Senator CHAFEE. But any pressure we could exert in that area would be welcome.

Mr. YERXA, it is my understanding that you are doing the side agreements on the NAFTA. Is that correct?

Mr. YERXA. That is correct, Senator.

Senator CHAFEE. Well, speaking as one Senator, the less the better in those side agreements. I just think that trying to tailor those side agreements to the demands of Senators and representatives who are not going to be for the agreement anyway are going to push you too far over to one side. I think it is a great mistake.

I do not understand this business of having sanctions available because you do not like the way some other nation is behaving on the environment or on labor. As I understand, these are what is proposed in the side agreements. Are they not?

The CHAIRMAN. Careful, Ambassador. I am obliged to warn you, the committee is divided.

Mr. YERXA. Yes. I was going to say, Mr. Chairman, that—

Senator CHAFEE. The committee may be divided, but you have a great number here who are for the agreement. That is before it is tampered with heavily.

Mr. YERXA. I understand.

Senator CHAFEE. Feel free to go ahead. [Laughter.]

Mr. YERXA. This is one of those difficult moments for trade negotiators. I think my experience from 4 years of this process is that there is a great deal of merit to what Mo Udall once said, that this job has done wonders for my paranoia because now I have real enemies.

The fact of the matter is that it is difficult to make everyone happy in this kind of a negotiation. I think the President does feel strongly that sound and effective side agreements on labor and environment and import surges are essential to the overall NAFTA package.

But clearly recognizes the need to ensure that the structure we come up with in those agreements is sensitive to U.S. sovereignty concerns, for the need to maintain our basic framework of laws and regulations. I think our purpose here is to gain more adequate and effective enforcement of national laws.

But I do think, Senator Chafee, that we have tried to structure an agreement—as I say, it probably will not make everyone happy,

but I think it does provide very important safeguards of the interests you were expressing.

And while there is, in our view, a need for these side agreements to have teeth, it is important to ensure that this only comes into play in situations where there is such a clear and consistent problem that the use of some sanction might be justified.

Senator CHAFEE. Well, Mr. Chairman, I do not like sanctions to begin with. It would be a really master—no, I guess I had better rephrase this.

It would be extraordinary if the administration, starting out with a Senate that was in favor of the NAFTA agreement, managed to do things so that they end up with a Senate that is opposed to the NAFTA agreement.

As you know the only indication we can take on the NAFTA so far is the vote on the fast track 2 years ago where the Senate, certainly the Senate Republicans overwhelmingly and a majority of the Senate Democrats, supported the NAFTA. So starting out, there is quite a head of steam you already have got for you.

So to monkey around with these side agreements I think is—I know the President made a commitment on side agreements and something has to be done to pursue his commitment, but it depends on how far you go.

Thank you.

The CHAIRMAN. So you do not want it to be improved to the point where it no longer has the majority. Is that correct?

Senator CHAFEE. Yes. You use the word improved. I would say tampered with or monkeyed around with.

The CHAIRMAN. I was only being friendly.

Senator CHAFEE. All right. Now with those clear instructions, Mr. Yerxa, you can now proceed and come up with an agreement that satisfies everyone. [Laughter.]

Mr. YERXA. We will do our best, Senator.

The CHAIRMAN. See how easy we make things.

Senator Bradley?

Senator BRADLEY. Mr. Chairman, I do not have any questions for Mr. Yerxa or Ms. Barshefsky. But I would, if you would permit me, like an opportunity to speak about someone who will come up on a later panel and I might not be here.

The CHAIRMAN. Would you please do?

Senator BRADLEY. Yes.

Senator CHAFEE. Could I just say one word before because I have to go? I want to just commend the administration.

I do not know Ms. Barshefsky. But certainly Mr. Yerxa has given wonderful service to this country over many, many years. I think Mr. Kantor and the President should feel very pleased that they have gotten you to remain in the government service and continue on these efforts.

I think you are a wonderful public servant and we are grateful to the service you have given and pleased you are up for this nomination.

The CHAIRMAN. That is very generous of you.

Mr. YERXA. Thank you, Senator.

The CHAIRMAN. I think that is a view shared by this whole entire panel.

Senator Bradley?

Senator BRADLEY. Mr. Chairman, is it your intention to move directly now to Panel I and II?

The CHAIRMAN. Yes, sir. If you have a moment.

Senator BRADLEY. I will wait one minute.

The CHAIRMAN. Fine.

Senator Durenberger?

# OPENING STATEMENT OF HON. DAVE DURENBERGER, A U.S. SENATOR FROM MINNESOTA

Senator DURENBERGER. Mr. Chairman, as I understand it, I think John Chafee expressed some of my concerns and my appreciation.

I was reading Bob Samuelson this morning and I will not reread the unkind things said about the President. He is not FDR. But there is one line that—

The CHAIRMAN. Now we are not talking about Ambassador Yerxa.

Senator DURENBERGER. We are backing into a reference.

The CHAIRMAN. For those who have not read Mr. Samuelson, he is the incumbent President. He is not FDR. And I think statistics prove that. [Laughter.]

Senator DURENBERGER. It is clear that with the exception of the Chair of this committee, who is the greatest diplomat in the world, everyone in this town has taken to critiquing the President of the United States during his first 100 days.

But Bob Samuelson says something that—I will just give you this one line—"Government needs to retreat from jobs that it cannot do or are not worth doing while focusing on things it must do and can do well."

You could add a corollary to that which is that we really need to rethink how we use government. Each time I have an opportunity look at people like the two that are before us, and then reflect back on what I enjoy most about the government side of my work on this committee, always keeps coming back to the USTR and to how people are attracted to these particular positions, not for what they think is in it for them (i.e., a great job in the future), but because at USTR we seem to use government much more adroitly than we do in other government agencies.

But right behind them are the leaders of 134,000 people housed all over America in a typical bureaucracy that the public, according to Bob Samuelson, is sick and tired of.

But this is a unique, no longer an experiment, and appropriate way to both define and implement public policy. I know about both of these people. Pat Eveland, who is my legislative director and formerly worked for former Congressman Frenzel for 20 years, says they are the greatest things since sliced bread even though they are associated with those folks who sit on the other side of the isle.

It just makes me feel especially good that these people will commit themselves to do this kind of work and that America is so well represented by the commitments that they have made.

So without getting into any of the specifics, I really think it is important for me to say good things about both of these people and,



by implication, all of the people that are attracted to serve the administration.

The CHAIRMAN. That is very generous of you.

Ms. BARSHEFSKY. Thank you, Senator.

Mr. YERXA. Thank you.

The CHAIRMAN. And very characteristic of you, sir.

Senator Conrad, did you want to ask any last questions?

**OPENING STATEMENT OF HON. KENT CONRAD, A U.S.  
SENATOR FROM NORTH DAKOTA**

Senator CONRAD. Yes, thank you, Mr. Chairman.

I, too, am impressed by the quality of the people who are before us, both Mr. Yerxa and Ms. Barshefsky. I have had a chance to meet with Ms. Barshefsky. I was very, very impressed by her quality and her commitment. I have not had a chance to meet with Mr. Yerxa, but I think he is certainly a fine individual.

Let me turn to an area that is of deep concern to my constituency. I come from an agricultural State. I think this is more than just a parochial concern because agriculture is fundamentally important to this country, one of the few sectors with a net export surplus.

Let me just preface my questions by saying I am very, very concerned about the direction of our agricultural negotiations. My personal view is that the GATT agreement as negotiated thus far is very bad for U.S. agriculture. I think the Europeans have taken us to the cleaners in the negotiations.

Just so my colleagues understand, the Europeans subsidize at a high level on every commodity. In relative terms, we are at a low level. We are no longer talking about a level playing field. We are talking about equal percentage reductions from these unequal bases.

When we were first apprised of this change in negotiating position, I told Clayton Yeutter it reminded me of the Russian proverb, "the fat man gets thin and the thin man dies." Unfortunately, we are the thin man in this negotiation.

Mr. Yerxa, I understand that yesterday you indicated at the Commodity Club that agriculture is not your area of expertise. Would that be a fair characterization?

Mr. YERXA. No it would not. What I said was that I did not consider myself an expert on all agricultural matters. That is clear. Obviously, as a trade negotiator for 4 years in the GATT and also congressional staff, I have worked very hard on agricultural trade matters and agriculture negotiations.

I have worked on such sensitive issues as the oil-seeds dispute and our dairy fight with Canada and a number of others. I was indicating to a group of farmers and commodity traders and others that I do not consider myself a thoroughgoing expert in agriculture. That is true, Senator.

But I think my background as a negotiator in dealing with agricultural trade policy is relevant. And I told the group that since I will be having responsibilities for agriculture at USTR that I thought there was a great deal I could learn from them and from the agricultural community and that I wanted to have an ongoing dialogue with them.



Senator CONRAD. Did you at that lunch indicate that you would defer to Mr. O'Mara and that you had high regard for Ms. Early's work on agricultural negotiations?

Mr. YERXA. I did talk about both of them, yes. Both people I have worked with and who I believe are doing a good job.

Senator CONRAD. Since you have just acknowledged that you are not an expert in agricultural trade issues, would it be fair to say that you would look to them for advice with respect to these issues?

Mr. YERXA. No. I said, obviously, their expertise is important to us in trying to get good agreements. But I am going to form my own judgments and I am going to advise Ambassador Kantor based on my own judgments of what does and does not represent a good agreement.

Senator, I recognize the criticisms that you are raising about the Uruguay Round and about where we have come out thus far with respect to the agriculture subsidy reductions. It is clear that decisions made in the previous administration did not bring us to the point of the original objectives of the negotiators.

The original proposal of the United States was to reduce agricultural export subsidies to zero. That has not been achieved. And I think, obviously, we have to look at whether the actual reduction commitments that are reflected in the Blair House Agreement are sound.

But I do want to make the point that the reduction commitments that have been negotiated would bring about a very sizable reduction in European export subsidies disproportionate to U.S. reductions. It is not perfection. And I think ultimately you and the committee will have to judge whether the reduction of disparities, which could be of tremendous advantage to U.S. export interests, is adequate for a final agreement.

That is something we are going to consult with you about before striking a deal in the Uruguay Round. We have not agreed to anything yet. And ultimately, it is going to be your judgment, Senator, and the judgment of the U.S. Congress as to whether those agreements are sound.

But I am certainly going to continue to work towards an agreement and work with you in seeing whether the final product is to your liking.

Senator CONRAD. Well, let me just say that the characterization that you have of the trade agreement would be 180 degrees in opposition to the one I would have. I think it has been a disaster for American agriculture, an unmitigated disaster.

I think the Canadian Free Trade Agreement was an unmitigated disaster. And when I hear you reference Mr. O'Mara, and Susie Early, who are the architects of that policy or at least in on the architecture of that policy, that gives me real pause. I have grave reservations about what change is occurring when I look across the table and I see the people who negotiated these agreements in the last administration, when I look at what the new administration is coming forward with and I see the same faces that negotiated agreements that I think were a disaster. I will end with this question.

Can you tell me what is the difference between the trade negotiating posture of this administration and that of the previous one?

Can you tell me, in agriculture, what are the differences between the new administration and the previous administration with respect to agricultural trade?

Mr. YERXA. I think first of all we want to make absolutely certain that we get the best possible advantages we can in foreign markets, that we are guided by objectives——

Senator CONRAD. These are differences, I am asking, differences between this administration——

Mr. YERXA. I understand that.

Senator CONRAD [continuing] And the previous administration?

Mr. YERXA. I understand that.

Guided by objectives that were laid down by this Congress in 1988 when the Congress set forth negotiating objectives for the Uruguay Round in the 1988 Trade Act.

Senator CONRAD. I am not asking that. I am asking, what is the difference between this administration on agricultural trade policy and the previous administration.

Mr. YERXA. Well, Senator, we obviously want to do a better job. We want to get more access to foreign markets. We want to get subsidies down further. We want to get U.S. farmers the best deal we can in foreign markets. We want to push not only the Europeans but the Japanese and other Asian markets that are currently closed to us for a number of products, and we are going to use every device at our disposal to do so.

The administration believes that a comprehensive Uruguay Round agreement can help level the playing field. It is not going to solve all the problems and it is not going to create perfection. I do strongly disagree with you——

Senator CONRAD. On that issue, what is the difference between this administration and the previous administration?

Mr. YERXA. Well, perhaps the previous administration was prepared to compromise too much and we have to look at some of those compromises they made and see if we cannot do a better job, Senator.

You want to see a Uruguay Round outcome that completely levels the playing field. I would like to see that as well. I do not know if it is going to be achievable. I do know that we can significantly reduce the disparity between the United States and our heavily subsidized and protected competitors, which right now engage in a great deal of inefficient agriculture production.

And if we can get a Uruguay Round deal that, as the current Blair House Agreement would do, brings subsidized European wheat exports down by 50 percent over current levels, I think we have to look seriously at whether that is going to help one of the most competitive export sectors of our economy, the wheat sector.

Senator CONRAD. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Conrad.

Senator Bradley would like to make a statement about one of our nominees in the next panel who has had a very close relationship in the past with him.

# OPENING STATEMENT OF HON. BILL BRADLEY, A U.S. SENATOR FROM NEW JERSEY

Senator BRADLEY. Thank you very much, Mr. Chairman. I appreciate your willingness to allow me to make this statement prior to the panel coming up. I have to have another meeting.

The CHAIRMAN. Of course you do.

Senator BRADLEY. The committee will consider the nomination of Ken Apfel, who has been nominated as Assistant Secretary for Budget and Management. Ken Apfel served as my legislative director and as an L.A. in charge of budget, health and social policy for more years than both he or I actually remember—it was a very long time.

In fact, I was thinking today as I looked out that he was with me so long that he did not even use glasses when he joined me. And now, of course, he, like I, have the little specs to look at the fine print.

Ken Apfel, I think, is one of those rare human beings who the country is lucky to have, as Senator Durenberger was saying earlier, willing to serve in this administration. He has command of the academic literature in terms of social policy and health policy. He has encyclopedic knowledge of the budget and he has a very sensitive awareness of how laws are passed and how human that process is and how important it is with people, to have relationships of confidence and trust, whether you disagree with them or not.

He also is someone who likes public policy. He is a graduate of the L.B.J. School, someone whose real excitement in life is being involved in the actions of government that improve the quality of life for people in this country. He is a very dedicated person.

I think the committee will undoubtedly approve him, along with the other nominees. I think the President served himself well and the Secretary has served herself well by nominating him for this position. I will miss him. But I am glad he is in charge of \$600 billion and he is only a phone call away.

To those who have served on this committee, and particularly to the staff who have served with him, I think everything I say would be underlined over the years of his service on this committee. So it is my pleasure to introduce him to the committee and also his wife, Caroline, who is accompanying him today.

I, again, think the President is well-served and we are as well. This isn't totally an anonymous introduction for the TV cameras that are poised ready to catch this, maybe Ken and his wife could stand.

The CHAIRMAN. Caroline Hadley and Ken Apfel, would you stand?

Mr. APFEL. My glasses are off. [Laughter.]

The CHAIRMAN. We welcome you.

And, sir, thank you for that very gracious introduction which bodes well for the nominee. Mind you, anyone willing to be in charge of the budget of the Department of Health and Human Services is probably welcome to the job anyway. But I predict an easy confirmation.

Thank you all. Thank you, Senator Bradley, for coming by.

Senator Riegle, I know that you have questions you wish to address to Ms. Barshefsky.



**OPENING STATEMENT OF HON. DONALD W. RIEGLE, JR., A U.S.  
SENATOR FROM MICHIGAN**

Senator RIEGLE. Thank you, Mr. Chairman. I am in the midst of a hearing upstairs in the Banking Committee and I appreciate, as always, your courtesy. I would like to make a comment on a couple of other items that will be before us today. So let me move through it as quickly as I can.

But I do want to address my initial comments to Ms. Barshefsky. I've long been concerned about the revolving door problem between government and private industry, especially in the area of international trade. I think it's odious. I think it's damaging to the country and I feel very strongly about it.

I believe people who negotiate trade agreements for the American people, in fact, have to be what I call economic patriots. I think you have one interest—that's this country—and no other interest. A notion of sort of bending over backward for somebody else in another country or private outfit or whatever else I think is just absolutely unacceptable and out of the question.

I think the American people feel very strongly about this. There is a hearing up in the Senate Banking Committee on this. Various people testified. One was Ross Perot, who talked about his view of the revolving door situation, having created very serious problems for our country.

In the course of that presentation, he referred to this article in the Wall Street Journal, which I am sure you are familiar with, on March 23 of this year, which asserted that you were registered as a foreign agent for firms in Mexico, Canada and Japan. And in specific, the article said that you or your law firm represented among other foreign clients Nippon Steel Corp., COECE, a coalition of Mexican companies, the Canadian Embassy and the Canadian Forestry Industries Council.

With that as the predicate, I want to go through some specific questions. First of all, let me ask you the basic question. Is this article accurate? And if it is not, in what ways is it inaccurate?

Ms. BARSHEFSKY. Thank you very much, Senator, for raising this issue because the article was inaccurate in several very important respects—inaccurate in its facts and inaccurate by omission.

First of all, let me say, Senator, that my practice of international trade law over the past 18 years has been on behalf of both United States and foreign companies; the rough mix is probably about half and half.

In the course of my foreign representations, I have never lobbied the U.S. Government, the Congress, or the executive branch, ever. With respect to my recusals, I have looked at the foreign representations that I have had and the extent to which they would impact upon my responsibilities if confirmed as Deputy USTR, and I have recused myself from four representations specifically by name in my recusal letter as well as, of course, the general recusals which one undertakes when entering a position of this magnitude.

The recusals involve the North American Free Trade Agreement, the Canadian softwood lumber industry, matters involving the Government of Canada, and the British steel industry. None of these recusals affects in any way my responsibilities at USTR inasmuch

as those responsibilities would focus on China, Japan, Asia more generally and Latin America.

With respect to the article, it indicates that I represent Nippon Steel. I do not represent Nippon Steel, although they have been a client of my firm. It indicates that I represent the Canadian Wheat Board. I do not represent the Canadian Wheat Board, although they have been a client of my firm.

While I have registered under the Foreign Agent Registration Act on behalf of the Canadian softwood lumber industry, the Government of Canada and COECE, those representations did not involve lobbying of any kind. These were registrations that I felt might be required under the Act. There are many gray areas under the act and I tend to look at these things extremely conservatively and carefully. But in retrospect, it is questionable in my mind whether registration was appropriate.

Senator RIEGLE. Now you mentioned that you have recused yourself, I think, in four different areas and one of those was with respect to the Mexican Free Trade Agreement. Tell me what your background involvement has been relating in any way to that that would cause you to make that refusal.

Ms. BARSHEFSKY. I represented COECE, which is an acronym for the private sector umbrella group which represented Mexican interests in connection with the Free Trade Agreement. The scope of the representation with COECE was rather limited and narrowly focused. That was to review various drafts of the NAFTA text for internal legal consistency. To use as, perhaps the clearest example, in one chapter the word Party may have appeared with a capital "P" which has a certain connotation. In another chapter the word party may appear with a small "p" which may have another connotation.

The question would arise legally, does this make a difference? Is there meant to be an inconsistency or was this simply a drafting error? It was this kind of detailed, legal review of the agreement among its provisions that the representation entailed.

Senator RIEGLE. Well, different people are going to have different views on this. I think you are a decent, ethical person. I have no reason to think otherwise. I find it distasteful and troubling that we are finding our trade positions being filled by people who, in my view, and the way I would phrase it, sort of work both sides of the street, and 1 day wear a hat representing a foreign interest and the next day wear a hat representing an American interest, whether or not lobbying is involved.

I mean, there is a fine line between what constitutes an impact on the process, and it does not necessarily have to involve lobbying per se. I think that the public is troubled about it, partly because we have got huge trade imbalances. We have not been able to correct them. We have lost millions of jobs overseas through, I think, manipulation of the process.

And it takes place in lots of different forms. Some are more egregious than others. But it is a whole body of activity. I am not quite sure where we draw the line, but I am troubled by it. And I think it has hurt the country and I think it has advanced private interests while it has hurt the country.

I think it has advanced the interests of American law firms, of participants in American law firms who I think have done very well in practice here. I realize other members of this committee may feel differently than I do. But I think it is a serious enough problem in terms of its aggregate impact, and the resentments that are building in our own society, that it is very troubling.

I think it does raise new questions. I think we are at a different point than we have been at before. I do not think it is as benign as it is described. I do not just address this to you. This is an issue that is a lot bigger than your nomination. But your nomination starts to bring it into focus.

That may not be completely fair to you. But nevertheless we are talking about a situation and a state of circumstance that has to be addressed. I am, for one, troubled about it. I do not quite know how to resolve it, except that it leaves me with a feeling that some additional means is going to have to be found to do a better job of representing and protecting, in my view, the best proper sense of the word, the economic interests of this country.

And guns for hire in our country, I think, have hurt our country in this area. I think so very directly.

Ms. BARSHEFSKY. Senator, may I comment?

Senator RIEGLE. Yes, please.

Ms. BARSHEFSKY. If I may?

Senator RIEGLE. Yes, by all means.

Ms. BARSHEFSKY. I view the scope of my representations, both foreign and domestic, as a decided advantage to the President and to USTR with respect to the Deputy position.

I think it is extremely important if you are a negotiator to not only understand the substance of what you are negotiating, but to have had a broad range of experience that lets you intuit what the other side surely must say next.

Senator RIEGLE. Well, let me ask you this question then.

Ms. BARSHEFSKY. Yes.

Senator RIEGLE. And I want to give you the time to finish. I do not mean to cut you off.

Ms. BARSHEFSKY. Yes.

Senator RIEGLE. I want you to have full time to respond. If you are confirmed, if and when you leave government service, will you ever directly or indirectly represent a foreign client in the future in your law firm or in your direct practice?

The CHAIRMAN. Senator, would you want to say ever?

Senator DURENBERGER. Oh, come on now.

Senator RIEGLE. Yes. I am posing the question now. I want to get a sense as to where we are going in the future. We are talking here about the past.

The CHAIRMAN. Well, Ms. Barshefsky, answer as you wish.

Ms. BARSHEFSKY. Senator, if I—

The CHAIRMAN. And be careful what you say.

Senator RIEGLE. And I will add a refinement or two. But I mean I want to get some parameters down here so we understand where we are going in terms of the revolving door problem. The revolving door problem works both ways. It revolves on the way in. It revolves on the way out. I find that even more troubling, quite frankly, and that is why I want to get to that point.



Ms. BARSHEFSKY. Senator, if I am confirmed, when I leave I will abide by the ethics rule that are in place at that time and by my commitments to the administration.

Senator RIEGLE. Well, what are your own personal views about it?

Ms. BARSHEFSKY. I take a view, as I began to say, I think different from yours. I view a broad range of experience as an advantage in a position like this. I think you want negotiators who have a variety and a range of skills which are very finely honed.

I think that those skills are enhanced, the extent to which—

Senator RIEGLE. Well, if I may, I think I want you to get to that but we have moved past that for the moment. I want to know now about after you leave this job. In the application that know how and inside knowledge on behalf of private, foreign clients or in any fashion of working for foreign governments or foreign clients after the fact.

Ms. BARSHEFSKY. I believe I have responded to the question, which is to say that I will abide by whatever ethics guidelines are laid down for people who have been in government service. I will abide by whatever requirements the administration deems appropriate.

Senator RIEGLE. And after that is fulfilled, if you were approached by a foreign client and decided you wanted to take that, you would have no qualms about that?

Ms. BARSHEFSKY. Senator, I come to this job with 18 years of experience in this field. I do not come to this job as a novice. I do not come to this job to build a reputation. I am here because I have a reputation. I do not come to this job to become highly compensated. I have been highly compensated. I am here because, as I indicated in my opening remarks, public service is something that I have always thought I would do.

Senator RIEGLE. Yes.

Ms. BARSHEFSKY. It is something that I have been raised to believe I should do as a matter of civic responsibility, as a matter of—

The CHAIRMAN. I wonder at this point if I could say that in Ms. Barshefsky's opening statement, she addressed some of the matters that very properly concern you, I think very directly and I think very much to the satisfaction of the committee.

Senator RIEGLE. Thank you, Mr. Chairman. Could I proceed just for another minute or two here?

The CHAIRMAN. Of course, you may.

Senator RIEGLE. And I must say in deference to you, I arrived late because I am chairing a hearing upstairs and I did not have a chance to read your opening statement, and I will do so at my first opportunity.

But I want this point to be understood, whether you have 18 years of prior experience or 118 years of private experience, the issue is not only one of practical fact, but it is also of appearance and public faith.

If you take this job and you go back out into the private sector and trade off your prior position in government to sell your services to foreign companies and perhaps foreign governments at even

higher prices, I find that distasteful. The American people would find it distasteful.

I hear nothing in your comment that says you would find it distasteful. Maybe you would. But I am a little troubled by that. I think it shows in my view, speaking as one Senator, something that is missing in your perception that bothers me. And there is a faith problem in this country and part of it is coming from precisely that very convenient sort of folding together of these things.

I think you have a much stronger argument on the way in, the arguments you have advanced there, than you do in the application of know how and expertise on the way out, after you have gone and go back into the employ, should you do so, of foreign clients.

I think that is troubling. I think most people in this country find it troubling. Lawyers by and large do not find it troubling. That is part of the reason why I think a lot of the population has trouble with lawyers, quite frankly.

I would ask you to think about that and we may need to talk about it further because I think you have to develop some standard in your own mind that you can articulate that does not just sort of inject a homogenized notion about abiding with the practices that are now in place for the government. I expect you to have a personal view; and I expect you to be able to articulate it. And I would like to understand what it is.

And it is going to matter to me as to whether or not I can support your nomination and anybody else that sits where you sit in the future. This is not just addressed to you. I think it ought to properly be addressed to everybody that is coming down the track. Because I think our country has been hurt by the revolving door practices of attorneys who work both sides of the street.

I am concerned about that in the future with respect to yourself and knowledge that you would gain in this position. You would clearly gain knowledge in this position you do not now have. It is very valuable. It is proprietary knowledge of this government. And I am very concerned about how it might or might not be used for private hire later by you and others that come through this situation. This is a new question and it has to be addressed.

You happen to be the person in the chair and I do not like to be the one that necessarily has to frame it in hard terms to you, but I think it has to be done. And you have to see it in larger terms than just yourself. I think you have to see it in national interest terms. And national interest terms once you take this job have to override your private professional requirements in my view.

Ms. BARSHEFSKY. Senator, if I may?

The CHAIRMAN. Please, Ms. Barshefsky.

Ms. BARSHEFSKY. Thank you, Mr. Chairman.

If I may, let me assure you, if I thought there was any question about the national interest not prevailing in my taking this job, I would never consider taking this job. I am a lawyer. I am a lawyer by training. One thing a lawyer always knows is who her client is.

Ambassador Kantor has expressed a view that he has two clients—the President of the United States and the Congress. And I very much identify with that view. The national interest is the overriding interest. The client at issue here is the U.S. Government. To a lawyer who has represented far smaller interests, this



is an overwhelming obligation. It is one that I take very, very seriously.

I would not take this job if I thought I could not act fully and completely in the interests of the U.S. Government. I would not take this job if I thought there were any question about my ability to be aggressive and to pursue the interests of this country.

The CHAIRMAN. Ms. Barshefsky, I think that is a very fine statement and I think you have had a good exchange here.

Senator RIEGLE. Mr. Chairman, if I may leave it there, I want to just say one thing on NAFTA. You have been very patient.

The CHAIRMAN. Sure. One thing on NAFTA because we have a—see all those people out there. They are all nominees.

Senator RIEGLE. I understand that.

The CHAIRMAN. Every one of them. [Laughter.]

Senator RIEGLE. I could hear the heavy breathing and I was appreciative of why it would be so.

I want to just say to our other nominee at the table, Mr. Yerxa, that the one way to kill NAFTA dead as a doornail and have it be dead on arrival around here is to come back with flaccid and weak, and not enforceable side agreements.

Now you are going to get a lot of chit chat from some of the people who are for this thing that are warning you against strong, enforceable standards. I just tell you directly, if you want to kill it dead as a doornail, bring it back with weak, flaccid standards and we will be able then to start over again.

Mr. Chairman, also, I want to just say with respect to Mr. Klepner who is coming later and also—

The CHAIRMAN. Yes, to be the Assistant Secretary for Legislation of HHS.

Senator RIEGLE. Yes. I want to indicate my strong support. Let me just mention also, Avis LaVelle—are two that I feel strongly about.

The CHAIRMAN. Yes.

Senator RIEGLE. Mr. Chairman, my last thought will be this, and I will address some questions to Ms. Barshefsky. I do not want to be misunderstood. I do not want to be misunderstood by the Chairman either. I am not talking now about your period of service in this job. I am talking about what you do after this job. You sidestepped that question twice and I want it addressed.

I do not have the time now I think to do that properly but it is going to have to be addressed before anything more happens.

Thank you.

The CHAIRMAN. Can we assume that—would it be helpful if Ms. Barshefsky prepared a statement and submitted it to the committee for this purpose?

Senator RIEGLE. That would be very helpful, Mr. Chairman.

The CHAIRMAN. Then why don't you do as well, Mr. Yerxa.

Mr. YERXA. I certainly will, Mr. Chairman.

The CHAIRMAN. Sure.

Thank you.

Senator RIEGLE. Thank you very much for your great patience.

The CHAIRMAN. Now, hold it. Before we go any further, Mr. Yerxa, you are hereby informed that your son, Gavin, and daughter, Haley Marie, have not been absconded with. They will be found

in the office of the chief counsel, staff director of the committee, Lawrence O'Donnell. They got bored. [Laughter.]

Mr. YERXA. I hope the furniture is still standing in his office.

The CHAIRMAN. And one young lady stayed right through. Could we give a hand for her? What a battle.

[Applause.]

Her sister could not take it anymore. Thank you very much.

Mr. YERXA. Thank you, Mr. Chairman.

The CHAIRMAN. We congratulate you on your nomination. We assure you of your confirmation and look forward to your public service.

Mr. YERXA. Thank you, sir.

Ms. BARSHEFSKY. Thank you, sir.

The CHAIRMAN. The committee will stand in recess for 10 seconds while we reset our table.

[Whereupon, the hearing recessed briefly.]

The CHAIRMAN. Now we will ask our friends from the trade world to depart in peace. I have to tell our panel that the galleries for their particular work are not nearly what they are for trade negotiations. When we have an incorporate tax issues up, the "Gucci Gulch" fills up out there at 6:00 in the morning.

You can always tell when we are dealing with welfare reform because you could shoot deer in the hallway. [Laughter.]

We now hear a panel of persons nominated by the President for high offices in the Department of Health and Human Services. In some cases we have had the nominations for a few weeks; in other cases, they have only recently arrived.

There is a disjunction between the time a nomination is received and the time the White House brings us papers that indicate that all is agreeable with the Justice Department and whatever. These have been so incoming, as generally commented in the Washington Post from day to day.

Mr. Broadnax, yours arrived at 8:00 last evening and I am surprised and pleased that you are down here. That last flight from Rochester obviously worked.

But this has meant that not every Senator has had the opportunity to meet with you individually and we would hope that they will do. We are going to go right ahead with these nominations. But I would ask each of you to make yourself at the disposal of members of this committee who would like to talk with you, normal courtesy calls, as they are turned, which would normally take place in advance of this hearing, that we will have them in the aftermath.

Senator Durenberger is particularly interested to meet with a number of you in response to his concern on health care issues. He being as we know the Ranking Member of the Medicare and Long-Term Care Subcommittee, as one of the authorities in our body on health care generally, and I know that you will want to meet with him, and given that you will.

I am going to ask each of you to make a brief statement, after which we will be available for questions generally.

Senator Durenberger?

Senator DURENBERGER. Yes, Mr. Chairman. Just briefly, sometimes when you are around here you sort of take for granted the

public service commitment that these folks give—I have already spoken to this subject. I have always enjoyed the opportunity to see these folks when they are still eager. [Laughter.]

Often it is a case of, gee whiz, not another appointee on my schedule that takes me away from other priorities. But I have learned something about and from each of these nominees.

So I have always relished the so-called courtesy meeting process that we have gone through. I missed it this time. I had met with only two of the people that are before us and then I got a notice that we are going to have a hearing and a markup. I reacted to that by calling you.

I appreciate your difficulties. I appreciate the pressures on the system. I also appreciate the difficulty of doing all the background checks. I have arranged to meet a couple of the nominees during the course of the day today, both of whom are known to me but not in the context of the responsibility they are taking on.

This is, from my standpoint, in no way a condition for my vote. But as you have pointed out many times, I spend a great deal of time sitting here on a wide variety of these issues, and I understand that when we are not sitting here or on the floor, responsibility for the policy of the nation resides along that green table.

So I wish more of us were here for your hearing. Because there is nothing more critical to the nation today than the issues with which you are each dealing. I hope that if I do not get a chance to visit with any of you personally before tomorrow, I expect to vote for all of you, and I hope that we will have time to meet after that.

The CHAIRMAN. Yes. And between the time we vote and the time of the actual Senate confirmation is probably a week. It is just the pattern of our schedules. So I would ask each of you to make it your business to make yourself available to Senator Durenberger and you will find it a very agreeable experience.

Now, to our witnesses. Before hearing from Mr. Broadnax I want to observe that he has to be the first member of the board of directors of the National Academy of Public Administration to come before this committee.

As a member of the Academy, I want to particularly welcome you and to note that you will surely be one of the only ones who has ever published an article in the Public Administration Review.

I once published an article in the Public Administration Review. It sank without a trace. [Laughter.]

It was the first thing and never heard of it since. This would be 1960 and it is gone but not forgotten by me. I almost want to drag it up and put it in the record at this point.

Good morning, Mr. Broadnax. We are very happy to have you.

#### **STATEMENT OF WALTER BROADNAX, NOMINATED TO BE DEPUTY SECRETARY, HHS**

Mr. BROADNAX. Good morning, Mr. Chairman and members of the committee. As you know, my name is Walter Broadnax and I am honored to be here today as President Clinton's nominee for the position of Deputy Secretary in the U.S. Department of Health and Human Services.

As a person who has spent most of his professional life either teaching public management and public policy or actively engaged



in the practice of public management, this most recent opportunity represents a high point in my 25 years of professional life.

As you may know, I spent more than 6 years as a faculty member at the John F. Kennedy School of Government at Harvard University where I was engaged in the training of young people to become professional public managers and public policy analysts.

During my term at the Kennedy School, I was also fortunate to have been able to spend a substantial portion of my time educating senior executives from the Federal Government as well as State and local governments.

Prior to this, I spent 3 years at the Federal Executive Institute where my primary responsibilities were those of a professor of public administration. In this role I was exposed in the classroom to hundreds of Federal executives from across the American governmental scene.

Turning to my background as a practicing public executive, I spent 3 years as the President and Commissioner of the New York State Civil Service Commission. In this role, I was responsible for Civil Service policy, programs and practice as related to a 200,000 person work force of the New York State Government.

Prior to this experience I served as Principal Deputy Assistant Secretary for Planning and Evaluation at the U.S. Department of Health, Education and Welfare during the Carter administration and as Director of Children, Youth and Adult Services for the State of Kansas.

Mr. Chairman, Secretary Shalala has asked me, if I am confirmed by the Senate, to concentrate my energies as Deputy Secretary on management issues broadly defined, the focus on the day-to-day management of this large and complex department.

She recognizes that strong management is an essential ingredient to achieving the several objectives that have already been outlined by this administration in areas like health care reform, welfare reform, and reducing the Social Security disability backlog.

The Secretary has also asked me to lead the reinventing government initiative for our Department. Secretary Shalala believes that she has put together a very strong team of individuals who will bring certain strengths, particularly in the policy and analytic domains. But she also recognizes the challenges we must face in the coordination and implementation of the administration's goals and objectives once we have passed through the legislative phase of the process.

Mr. Chairman, if confirmed, I intend to work with the Secretary, the President, and the Congress, particularly you and the members of this committee to ensure that HHS is managed excellently over the next several years.

The CHAIRMAN. We thank you, sir.

Senator Hatch, you have joined us. I wonder if you would like to make some comments. We have just begun this panel.

[The prepared statement of Mr. Broadnax appears in the appendix.]

**OPENING STATEMENT OF HON. ORRIN G. HATCH, A U.S.  
SENATOR FROM UTAH**

Senator HATCH. Mr. Chairman, I really appreciate that because I'm in a hearing in the Judiciary Committee and it is the confirmation of the Associate Attorney General and I would like to get back.

So if I could just make a couple statements and submit my questions.

The CHAIRMAN. Would you please do.

[The prepared statement of Senator Hatch appears in the appendix.]

Senator HATCH. Thank you, Mr. Chairman. You are so gracious.

I want to welcome all of you here today. You are in large measure the "brain trust" in a very, very important set of areas for me and for those of us on the committee. I take a great deal of interest in what each of you will be doing.

I look forward to meeting with each of you individually and discussing our mutual interests and how we might work together in the best interests of our country.

I want to commend the Chairman today for holding this morning's hearing. Frankly, you do a very good job. I am very pleased to be on this committee and serving with you.

I have reviewed the nomination materials for each of our witnesses today, and as I said, I want each of you to know that I take a particular interest in the issues before this committee. I think it is important that we work together because these are not partisan issues; they are too important for the future of this country. It is important that we get together and work together in trying to resolve some of the conflicts.

I hope that these nominations go forward on an expedited basis. As I have said, I look forward to meeting with each of you, prior to your confirmation if I can, or at a later time.

Mr. Chairman, I do have some questions that I would like to submit in writing. And again, just say that I appreciate you holding the hearing today.

[The prepared questions appeared in the appendix.]

The CHAIRMAN. We thank you, Senator. The nominees are very much aware that we are trying to expedite this hearing and in the process of having done so at the request of the Secretary we were not able to see that each of the nominees called on Senators as they ordinarily do. But there will be a week before the Senate finally acts and each has been asked to do so.

Senator HATCH. Thank you so much. And thank you for allowing me to go out of turn. It really has accommodated me and I personally appreciate it.

The CHAIRMAN. We thank you.

Now to dispel the count that everything is being run by the Yale Law School in this administration, we are now going to have our second consecutive witness from the John F. Kennedy School of Government at Harvard University. Dr. Ellwood, we welcome you, sir.

**STATEMENT OF DAVID ELLWOOD, NOMINATED TO BE ASSISTANT SECRETARY FOR PLANNING AND EVALUATION, HHS**

Mr. ELLWOOD. Thank you, Mr. Chairman and members of the committee. It truly is an honor to appear before you as I have in the past. My name is David Ellwood and I have been nominated by the President and the Secretary to be Assistant Secretary for Planning and Evaluation at the Department.

As you probably know I am a labor economist by training and my particular interest has been the poor and the disadvantaged and policies to help them.

As you have pointed out, I have been a professor at the Kennedy School at Harvard University for a number of years and most recently I have been serving as academic dean or dean of faculty and co-director of the Malcolm Wiener Center for Social Policy.

I published quite widely in the area of poverty, welfare and especially issues on the dynamics and duration of welfare receipt, unemployment and the like. I published a book in 1988 called, "Poor Support" where I analyzed the causes of poverty in the welfare system.

I have been thinking hard about human services policies and the problems of the disadvantaged and what we might want to do to help them for quite a long time. Frankly, I am very deeply honored and more than a little awed to be nominated by President Clinton to this very difficult task.

I am very eager to put the knowledge I have to work. But most importantly I am eager to learn more and to listen because I think there is quite a lot we have to do.

As you know, welfare reform is my greatest interest and I also look forward to the whole range of health and welfare issues that the Nation confronts. It is really a very exciting time for the Department of Health and Human Services, with major initiatives in health care reform, welfare reform and other areas affecting families, the elderly, the people with disabilities, virtually every American.

And if I am confirmed by the Senate my goal unambiguously as Assistant Secretary for Planning and Evaluation would be to make sure that this administration's initiatives are based on the soundest, most thorough analysis possible, but also to remember always the very human face of the struggles the people that we serve face.

During my career I have had the privilege of meeting with many Members of Congress, including members of this committee and congressional staff. I am really very proud to have had some small role in critical legislation, including the Family Support Act, which you ably developed, Mr. Chairman, and which is such an important piece of legislation.

If confirmed, I look forward to having the opportunity of working closely with you and I would be happy to answer questions. Thank you very much.

The CHAIRMAN. I have to apologize that I have not asked either Mr. Broadnax or Mr. Ellwood to introduce any members of the family they have along with them.

You just got the last family from Rochester, I know that.

Mr. ELLWOOD. My family is still up in Boston.

The CHAIRMAN. Prudent.



Mr. ELLWOOD. But they will come. [Laughter.]

The CHAIRMAN. Do not leave until you have been nominated.

Now, Mr. Klepner, have you anyone?

Mr. KLEPNER. I believe I do, Mr. Chairman. I have my step-daughter, Bibb Hubbard is in the back of the room.

The CHAIRMAN. Hello there. Now, stand up and welcome. Welcome to you, sir.

#### STATEMENT OF JERRY KLEPNER, NOMINATED TO BE ASSISTANT SECRETARY FOR LEGISLATION, HHS

Mr. KLEPNER. Thank you, Mr. Chairman, Mr. Durenberger. My name is Jerry Klepner. I am pleased to have the opportunity to appear before this committee this morning. I am honored to have been nominated by President Clinton and Secretary Shalala to serve as Assistant Secretary for Legislation at the Department of Health and Human Services.

I ask, Mr. Chairman, that my short statement be placed in the record. I would simply like to say that in my career, both as staff director of the House Post Office and Civil Service Subcommittee on Compensation and Employee Benefits and in my later years, I have had the opportunity to work with many Members of Congress on both the House and Senate side, and I have had the opportunity to work in a very bipartisan manner in terms of building support for very important legislative initiatives.

I would fully concur with the observations of Senator Hatch. I did have the opportunity to work with Senator Hatch and numerous others on the landmark child care legislation of 1990. I worked with both sides of the aisle on the Civil Rights Act of 1991, the Family and Medical Leave Act.

What I have become convinced as a result of that experience and experiences on other issues is that in order for government to succeed there must be partnership created between the administration and the Congress. It is this partnership between members on both sides of the aisle that will allow us to achieve the types of success that I believe we would all like to achieve.

There are many challenges and opportunities that we will face over the next 4 years—health care reform, welfare reform, childhood immunization, many other issues that will be before this committee. It is my hope that if I am confirmed by the Senate that I will have the opportunity to work with this committee, to work with members on both sides of the aisle, to bring those initiatives into law for the benefit of all American people.

Thank you very much.

[The prepared statement of Mr. Klepner appears in the appendix.]

The CHAIRMAN. Thank you, Mr. Klepner. Just remind me, if I should forget, that when questioning begins we are going to ask you about the proposal that you sent us on the immunization project. But you had also promised us you would tell us how to pay for it and you have not done that.

Mr. KLEPNER. We are working on that, Mr. Chairman.

The CHAIRMAN. Yes, I have heard that before. [Laughter.]

And now from the great City of Chicago, Avis LaVelle, who is proposed nominee for Assistant Secretary for Public Affairs. We welcome you, Ms. LaVelle.

Ms. LAVELLE. Thank you, Mr. Chairman.

Let's see, have you any friends, neighbors?

Ms. LAVELLE. All safely back in Chicago.

The CHAIRMAN. All safe.

# **STATEMENT OF AVIS LAVELLE, NOMINATED TO BE ASSISTANT SECRETARY FOR PUBLIC AFFAIRS, HHS**

Ms. LAVELLE. As the President's nominee to be Assistant Secretary for Public Affairs at the U.S. Department of Health and Human Services, I would like to thank the distinguished chairman and members of this committee for giving me the opportunity to appear before you today.

My name is Avis LaVelle. I am honored to have been nominated by President Clinton to serve the people of America. I regard as a great challenge the task that lies before me if I am confirmed by the Senate.

I am no stranger to a task of this sort, having served for 4 years as Press Secretary to Mayor Richard M. Dailey of Chicago. In that capacity, I was responsible for overseeing the public education and outreach activities for 45 city agencies as well as the Mayor's own public relations activities.

The CHAIRMAN. What did you do when the tunnel was breached and it looked like Chicago might be swept away down the Mississippi River through the canal?

Ms. LAVELLE. That was a very interesting time. At the time that that happened I was actually away on vacation.

The CHAIRMAN. Wouldn't you know. [Laughter.]

Ms. LAVELLE. One real talent is to know when to be there and when to be away.

The CHAIRMAN. I can see the Mayor saying, the one time I need her she is in Florida.

Ms. LAVELLE. I did come back. It was a very interesting time, a very challenging time for the city. The one thing that we did try to do was to make sure that we provided as much information as possible. There was not a lot that we were able to do.

The CHAIRMAN. I mean, it was actually brilliant. If ever there was a world-class disaster to happen and it did not, was in Chicago. The performance of the city and the municipality was extraordinary. That no one gave birth to a child in an elevator stalled on the 48th floor of the Sears Roebuck Building is something of a miracle. You evacuated the entire loop in about 5 hours. Right?

Ms. LAVELLE. It was really a phenomenal success, due in large part to the work of so many dedicated city employees. People worked around the clock for about 10 straight days before things started to actually get back into order.

The CHAIRMAN. Yes. Pay attention that nobody even knows it happened outside of Chicago because nobody died. That is the reward for effort.

Ms. LAVELLE. Prior to my time with the city of Chicago I spent 12 years in the news media, the last 5 as the chief political correspondent for a major radio and television outlet.



As the largest and most complex of the Federal Government agencies, HHS presents a huge responsibility but also a tremendous opportunity to make positive change in the lives of millions of Americans. Under the leadership of President Clinton and Secretary Shalala, we will tackle some of the most difficult and challenging issues of our time, an issue about which you are deeply concerned—welfare reform, of course health care reform, the modernization of the Social Security system, and revising Headstart as well as taking on the task of ensuring that all of our children are immunized by the time they reach their second birthday.

This administration takes very seriously its mission to improve the health and welfare of the American people, especially our children. Expanding access is critical to services but equally important is expanding access to information because even the best programs are useless if the people do not know that the programs exist.

If I am confirmed by the Senate, I view as my mission the expansion of access to information about all of the innovative programs and the array of services that will emerge from HHS as this administration moves forward. My goal is to try and use 21st century technology to make sure that people are as aware as possible of what we offer to them and that they also know that we do our best to provide it both efficiently and cost effectively.

Thank you.

The CHAIRMAN. Thank you, Ms. LaVelle.

[The prepared statement of Ms. LaVelle appears in the appendix.]

The CHAIRMAN. Now, Kenneth Apfel, who has been, of course, introduced by Senator Bradley. Have you anyone hereabouts whom you would like to introduce to the committee?

Mr. APFEL. Yes, I do. My wife is here, Caroline Hadley.

The CHAIRMAN. Good morning, Ms. Hadley. How very nice to have you.

Mr. APFEL. The kids are in school.

The CHAIRMAN. The kids are still in school. They are where they ought to be.

Mr. APFEL. That is right.

#### **STATEMENT OF KENNETH APFEL, NOMINATED TO BE ASSISTANT SECRETARY FOR MANAGEMENT AND BUDGET, HHS**

Mr. APFEL. Mr. Chairman and members of the committee, my name is Kenneth Apfel. I am honored to appear before the Finance Committee today as President Clinton's nominee for the position of Assistant Secretary for Management and Budget at HHS.

As you know, I worked for the Senate for the past 13 years and I still feel very much a part of the Senate Finance Committee. Indeed, it feels very strange today sitting here in front of you rather than behind you as I did for so many years.

I ask that my full statement on the description of my job and my qualifications for it be included in the record.

The CHAIRMAN. Without objection, of course. We would be happy to.

[The prepared statement of Mr. Apfel appears in the appendix.]

Mr. APFEL. The ASMB position is one with a very wide scope. The position serves as the senior budget official and chief financial

officer for the Department. I believe I bring a lot to the job. My educational background is in social policy and in public administration. I have a solid background in the main areas of HHS policy—health care, Social Security, family policy, income security, child support and poverty.

Finally, I cannot conclude without recognizing one particular member of this committee. As you know, I worked for Senator Bradley for the past 10 years. We have been through a lot together—the landmark Social Security legislation in 1983, which was shepherded by the new Chairman, the enactment and subsequent repeal of the Catastrophic Care Act, and virtually every major health, welfare and human service reform enacted in recent years.

I am forever in his debt for his guidance, his leadership and his friendship. I cherish those 10 years.

Mr. Chairman, I learned an important lesson from Senator Bradley and from my experiences with this particular committee. I learned first-hand that the choices that the members of the Finance Committee face are incredibly tough ones. If I am confirmed by the Senate, I pledge that I will do my level best to serve the President, Secretary Shalala and the American people and help this committee in any way possible in its deliberations.

Thank you.

The CHAIRMAN. That is very generous of you and a very telling and accurate statement, I assure you.

Now to continue this march, this crimson tide, making its way down the field, we are going to hear from Bruce Vladeck, who is our nominee for the very intimidating position of Administrator of the Health Care Financing Administration.

Dr. Vladeck, have you family with you?

Dr. VLADECK. Thank you, Mr. Chairman. Most of my family is in New York. But since my sister is also my lawyer, she was afraid to permit me to appear today without her presence. My sister, Anne, is in the audience.

The CHAIRMAN. We welcome you, counsel. Would you like to come forward? [Laughter.]

Dr. Vladeck?

#### **STATEMENT OF BRUCE VLADECK, NOMINATED TO BE ADMINISTRATOR OF THE HEALTH CARE FINANCING ADMINISTRATION, HHS**

Dr. VLADECK. Thank you, Mr. Chairman. It is a great honor to appear before you today as the President's nominee to be Administrator of the Health Care Financing Administration in the Department of Health and Human Services.

In the interest of time, if you would permit, I will make very, very brief oral remarks and submit the statement for the record.

The CHAIRMAN. We have a statement from you which was very courteous of you. We will put it in the record as if read and you proceed as you wish.

[The prepared statement of Dr. Vladeck appears in the appendix.]

Dr. VLADECK. Thank you very much.

Let me just say very briefly that one in four Americans are beneficiaries of the Medicare and Medicaid programs. For more than a quarter of a century they have helped to meet the basic needs of our most vulnerable populations—the poor, the disabled and the elderly.

As a society, I think we should be proud of these programs. They are two of the most important things this government does and represent what the United States does best.

My principal responsibility as Administrator of the Health Care Financing Administration, should I be confirmed by the Senate, will be to improve the ways in which these programs serve our primary beneficiaries.

We tend in Washington, as I have, Mr. Chairman, in prior testimony before this committee, to be so preoccupied with issues of grand policy, of budget, of budget reconciliation, that we sometimes run the risk of overlooking the fact that what these programs are all about, and what HCFA needs to be all about, is the delivery of services in every community in this country to people with particular needs for health-related services; with particular difficulty in getting them; and who are at risk financially if they do not get the services they need when they need them from the right kind of programs.

Consistent with Secretary Shalala's direction to me and with the philosophy of the administration about the way in which government programs should run, if I am confirmed, my highest priority will be to make these programs work better for the beneficiaries. In the first instance, by doing a significantly better job of listening to the beneficiaries, of paying attention to what their concerns are, and trying to make the entire system more responsive to their needs.

I very much look forward to the prospect of working with you and other members of this committee as we take on these tasks in the years ahead should I be confirmed and I am grateful for the hearing today.

Thank you.

The CHAIRMAN. You could not be more welcome in your remarks, sir, and we look forward to your taking on a formidable task.

And finally in this panel, counsel to all of you, and you may all end up needing her, God knows, in this time. [Laughter.]

We have Harriet Rabb. A very good morning to you.

Ms. RABB. Good morning, Mr. Chairman. May I introduce one of my family, Senator?

The CHAIRMAN. Would you? Do, of course.

Ms. RABB. Though my son, Alexander, is at Oberlin College taking a final examination as we speak, my daughter, Katherine, is here. She is college bound next fall, but had the chance to be here today.

The CHAIRMAN. Katherine. There they are. Stand up, Katherine. Where are you going to college?

Ms. Katherine RABB. Harvard.

The CHAIRMAN. To Harvard. [Laughter.]

Well, you see, I think good for you, but do not expect to do so on your mother's pay, Katherine. [Laughter.]



**STATEMENT OF HARRIET RABB, NOMINATED TO BE GENERAL COUNSEL, DEPARTMENT OF HEALTH AND HUMAN SERVICES**

Ms. RABB. Thank you, Mr. Chairman. My name is Harriet Rabb and I am honored to be here today as you consider my nomination to be General Counsel of the Department of Health and Human Services.

Immediately preceding this nomination, I served as vice dean and was the George M. Jaffin Professor of Law and Social Responsibility at Columbia University School of Law in New York City.

I joined the Columbia faculty in 1971 after several years in public interest law and a period of service in the New York City government. During more than 22 years at Columbia, I taught in and directed the school's clinical law curriculum in the areas of employment and housing discrimination law, immigration law, education policy, and in the New York City office of the corporation counsel.

My experience cuts across both policy and litigation lines and is well across a wide variety of subject areas. This has been excellent preparation for the position of General Counsel at HHS. The work of the General Counsel involves supporting the Department's Operating Divisions and the Office of the Secretary as legislation and regulations codify policy on issues arising out of the Department's jurisdiction.

In shaping those policies, I understand, the Department looks to the General Counsel's office for guidance on the constraints and opportunities offered in the relevant law.

The General Counsel's office also manages the Department's litigation docket and recommends to the Justice Department courses of action to further the Department's and the public's interest.

My work in and for New York City government, and in the policy clinic I directed, have prepared me for the legal policy work at HHS. My years of litigation in both Federal courts and administrative forums have prepared me for the office's case control work.

My experience as a member of the law school management team and as a member of a number of not-for-profit boards, including the board of the Ford Foundation, has grounded me in the demands of managing the large law office for which I would become responsible.

Should this committee act favorably on my nomination, I very much look forward to having the benefit of your advice and experience and to working with you and the committee in the coming years.

Thank you.

[The prepared statement of Ms. Rabb appears in the appendix.]

The CHAIRMAN. That was very forthright and generous. You will not get any advice from me on how to manage a large law office. But perhaps Senator Grassley would like to offer some thoughts on that.

You have some questions, sir?

Senator GRASSLEY. Yes, I thank you. Did you want me to go ahead of you, you mean?

The CHAIRMAN. If you would like. I know you have to be somewhere else. All of us were meant to be at three place.

Senator GRASSLEY. I would appreciate it very much. I would like the people that I am going to ask questions of, to understand that



I was down at Judiciary at the confirmation hearing for Webster Hubble, who is not necessarily a controversial nominee, but is obviously a nominee for whom there is going to be lots of questions. I am participating in that.

I guess I would start with you, Mr. Ellwood. First of all, I have been informed that you commented how important welfare reform issues are to you in your opening statement. I thank you for giving that high priority. And even more importantly, the Chairman appreciates that high priority because that has been your number one goal, Mr. Chairman. In your years in Congress and as a public official you have brought some sense to our welfare programs.

You are to be complimented for that.

The CHAIRMAN. Thank you, Senator.

Senator GRASSLEY. And you are to be complimented for having that issue high on your agenda.

I note that you have had a particular interest in welfare reform as evidenced by your involvement with welfare recipients and administrators as well as the articles you have written.

I would like to ask you a question that is specific to my State, but also it is going to be involved with an overall policy that President Clinton has enunciated. I think, if it is carried out as I have heard him enunciate it, I am very much going to agree with him. His appreciation as a Governor of the lack of flexibility in Federal law for States to use innovation and to tailor programs that are unique to a particular State is helpful.

I think he believes that you cannot pour this country in one mold in Washington, DC. You can't have all policies carried out for a nation as heterogeneous as ours and as geographically vast as ours with efficiency, and good use of taxpayers' money. You can't do this and still meet the needs of the people, particularly when there is a dwindling portion of resources that are available for those programs.

So our State of Iowa has—not because of the President, but even before the President—been working for a good number of years on welfare reform in a very bipartisan manner. The proposal eventually passed both houses of the legislature with only one dissenting vote. It also had the support of our State's leading newspaper, the Des Moines Register. This group of State leaders, both executive and legislative branch, are now appealing to your Department. I understand you are in on the ground floor of this waiver process. They would like to have an expedited waiver to begin their program in July.

I know that you cannot tell me how you are going to rule on that. I understand that.

The CHAIRMAN. You can give an indication of disposition, inclination.

Senator GRASSLEY. Yes, I am kind of leading to that. [Laughter.]

But not being a lawyer, I want him to understand that I am speaking from a more general point of view. Could you please describe what criteria you will use in making this decision? I would like for you to be very specific in the criteria you would use.

Mr. ELLWOOD. Thank you, Senator. I should make two points to begin, two general points. First of all, this waiver decision is done primarily out of the administration for Children and Families

(ACF) for which the nominee is not before you yet. But that is the starting point for the waiver decision.

Having said that, ASPE is deeply involved. We advise and discuss and it is also very relevant because, of course, welfare reform issues are coincident, as you point out, to all those things.

The second point I would just make on that score is, to endorse completely what you said in your opening remarks about State innovation and State efficiency. I think one of the critical lessons of the last decade is that many of the most exciting and most dramatic and most important innovations came from States and can only come from States. That is from Republicans as well as Democratic Governors.

What is remarkable is that in some States a genuine consensus can emerge. The remarkable thing about the Iowa situation without getting into the specifics of the waiver which I am only somewhat familiar with, is this remarkable near unanimity that was achieved in the whole process. It seems to me that is a lesson we also need to learn in our work here on welfare and other issues.

Now let me just say one or two words about the waiver issue. The President has made very clear his desire and his strong willingness that lets States experiment even with policies that are uncomfortable for us.

A second dimension, however, is it is absolutely critical—if this is a waiver process designed for demonstrations, to learn something—that we have a careful and thoughtful, effective evaluation designed so that people can use this as a strategy to learn and adjust.

One of the things that is very clear in the legislation is that it is for demonstrations and experimentation. It is not a blanket authority to waive welfare policy generally.

Beyond that, we obviously want to understand what the implications are for recipients—who benefits, who is harmed and so forth.

But in general, we are working to have a very rapid and effective mechanism for moving forward with this. I know that representatives from the State of Iowa have already been in discussions and so forth and I hope that we can move very rapidly. Because I think that these kinds of innovations are essential for us to move forward.

Senator GRASSLEY. A comment on your use of the word “demonstration.” I hope you consider one of our 50 States with only 1.5 percent of the people of our country a small enough unit to be a demonstration. I hope that you do not expect within that 1.5 percent of the population to have a smaller unit for demonstration that would take so long as to frustrate what the President wants to accomplish.

You know, he is going to be President at least 4 years and, of course, I hope just 4 years. [Laughter.]

But—

The CHAIRMAN. He may end up agreeing with you. I mean, that is the way the job is.

Senator GRASSLEY. But I think this President ought to be able to know a long time before he leaves office if his ideas are working. And if you are going to have within the State of Iowa a very small unit involved in the demonstration, you might as well forget it. Be-

cause I would see this, I hope the President would see it, as nothing but a bureaucratic effort to frustrate his overall policy.

When you can get so much bipartisan support in our State, or even in this committee for these sorts of things, I think you should move forward. I might remind you, as well as the Chairman, that Dr. Shalala said, even before I knew Iowa would be making this application, when she was up here for confirmation that she enthusiastically supported expedited waivers.

On the next point, the latest social science research demonstrates that children of intact families fare better than children of divorced or unwed parents. Consideration of many of society's problems—such as drug abuse, juvenile delinquency, teenage pregnancy, low self-esteem and poor academic achievement—demonstrates that the break down of family is a primary cause.

Mr. Chairman, I know you can say that even better than I can. I am sure that you, Mr. Ellwood, have heard about the recent Atlantic Monthly article provocatively entitled, "Dan Quayle was Right." It discussed what many American families have believed all along: the personal liberation movement launched in the 1960's, while purportedly good for adults, has been very disastrous for children.

Children in single-family parent homes are six times more likely to grow up in poverty than those in traditional intact families. The author begins, and I quote, "Divorce and out of wedlock childbirth are transforming the lives of American children. In the post-war generation more than 80 percent of the children grew up in a family with two biological parents married to each other. By 1980, only 50 percent could expect to spend their entire childhood in an intact family."

So my question stems from the fact that you have been a member of several panels and forums on children, families and poverty. Could you please comment on this latest research, where you agree, where you disagree? And, would it affect your position as a policymaker within the Department in your specific job.

Mr. ELLWOOD. Thank you, Senator. I certainly am familiar with that research. I am a contributor to it as well as a consumer of it. Let me start by saying, I think there is simply no question that children who are raised in single parent families have lower incomes, often do not fare as well in school, and suffer other disadvantages.

I would also emphasize the fact that you mentioned as well: The median child in the United States will spend time in a single-parent home now. This is something that affects us all and that we all have to be deeply concerned about. I think this issue of single parents and how you handle it and what you can do to try and reduce, for example, teen pregnancy and avoid the kinds of situations, has to be very central to this administration's policy. Not only in welfare reform, but in everything. If children do not have the strong and effective foundations that they need to go forward, we are going to be in trouble.

Having said all that, I also recognize the very real problems that single parents face and that we have to be responsive to that. And the very real responsibilities that I think both parents should have. For example, when families do split apart or never are formed, I



believe both parents ought to have responsibility to help provide for those children as well as to help nurture them.

So I would endorse what you have to say about the concerns. I think it ought to be central. Dealing with those causes is very important.

It is not going to be easy to find answers to something that affects the median child in America and we are going to have to work hard and think hard about how those things move forward.

Senator GRASSLEY. I think you are indicating to me that even though there are problems in transition to a long-term solution about this, you have to do something short-term to help single-parent families.

Mr. ELLWOOD. Again, I am sure that there are—you know, I am not going to get into bits and pieces. But the basic notion that it is a significant disadvantage in this country being raised in a single-parent family—if for no other reason than that 50 percent of them are poor—shows a fundamental problem and absolutely we must deal with it.

Senator GRASSLEY. If I could ask Mr. Vladeck several questions and then he will be the last person I would ask questions of.

The CHAIRMAN. Please, Senator.

Senator GRASSLEY. Thank you.

Again, Mr. Vladeck, I thank you for coming to my office to visit with me. I do not think I have any surprises for you this morning. I think that you are sensitive to most of the things I am going to ask about.

To what extent, and of course, obviously, as a background, the reason I ask questions is because my State is very sensitive to a lot of the decisions that are made that affect Medicare reimbursement. So any administrative decision that your Agency might make or any legislation that the Agency might oppose or support can have major consequences for a State of mine that has 15 percent of its population aged. That would be the second or third highest of all the 50 States.

So dealing with what I call the hassle-factor, I wonder if you intend to make it a priority to reduce administrative hassles which providers in my State complain about endlessly. And maybe not just in my State, but I only know about my State.

Dr. VLADECK. Senator, I spoke before about making the Medicare and Medicaid programs significantly more user friendly for our beneficiaries. But in order to do that, we have to make them considerably more user friendly for the providers as well.

There are a number of initiatives, some of which are already underway, to move away from paper processing to electronic processing—for example, the consolidation of some of our payment mechanisms and reorienting the practices and activities of the PRO's (Peer Review Organizations), that address and reduce the perceived hassle factor.

These activities are aimed not so much at hospitals perhaps, but at physicians, especially those who practice in smaller communities or in smaller groups. We are also very much in the process of recreating and reinvigorating some of the formal mechanisms that exist and of creating some new mechanisms to work more broadly with physician and other provider groups and organizations.



Rather than sitting here in Washington or in Baltimore and guessing what it is that is bothering providers and perhaps trying to fix it, we want to find more systematic ways of having them identify for us what are the major sources of hassle and concern for them and then seeing what we can do to fix them.

Senator GRASSLEY. You can build the morale of an awful lot of health care providers all over the country to the extent to which you can just let them spend more time delivering health care and less on paperwork. So I know you understand that. I just want to summarize what I think you said by emphasizing that.

And, of course, you know the importance as well on a second point to health delivery infrastructure in rural America and what sort of problems that has. And maybe to some extent how present Medicare reimbursement has impacted negatively upon this.

This is very much a concern of what we call the "Senate Rural Health Caucus." There is also a counterpart in the House. We have been struggling with this problem to make sure that Medicare treats rural areas equitably.

Is your administration going to be able to support such efforts? And more than just a general yes, which I hope you might be able to give us. Is there anything that we have been proposing that you think you could not support?

Dr. VLADECK. Senator, let me just take one step back to say that for the last 7 years, I have been a member of the Prospective Payment Assessment Commission. For the last 4 years of that time, I have been chairman of the subcommittee of Hospital Reimbursement, In-Patient Reimbursement of PRO-PAC. And as you know, in at least some instances we were out in front of the Congress trying to address the problems of rural hospitals by eliminating the dual standardized rates to align rural rates with the urban rates and to get the EACH/RPH programs into place with less burdensome regulations.

So I think it is fair to say that notwithstanding I come from the same island as the Chairman does, I have been very much involved in these rural health issues for some time.

In terms of the specific proposals of the Caucus, we are basically in sympathy with most of them. I am concerned to some extent that we need to think through all the implications of the President's proposal on health care reform and how they will play out in rural areas.

Then, particularly, how the Medicare program will work best with reform in rural areas where Medicare is so large a piece of the system. As you know, we have heard a lot from the Governors as well as others about that issue, and we are already at work with the First Lady's task force and others trying to make sure that as we seek to address the service delivery issues of rural areas we do so in a way in which the Medicare Program, the Medicaid Program and private insurance mechanisms are all working together to get the kind of service delivery we need.

Senator GRASSLEY. Mr. Chairman, my last question of this panel, also to Mr. Vladeck. When you were in my office, I discussed with you a little bit what policy you might follow with respect to a State being a single payment district for purposes of Medicare Part B provider reimbursement.

Is the Agency under your leadership going to continue the policy of requiring every county medical society to support the decision of making a State a single-payment district?

Dr. VLADECK. Senator, I have started to be educated about that issue. I am not as educated as I would like to be. One of the questions is the extent to which we are constrained by the statute in such interpretations. Now I hope that next week perhaps the Department will have a General Counsel confirmed and we can clarify the statutory requirements.

The CHAIRMAN. Not bad, Mr. Vladeck. Pass it on to Ms. Rabb. [Laughter.]

Not for nothing is he here.

Senator GRASSLEY. Is it dependent upon what she says? That may be in regard to the first question. But I hope it is not dependent upon whether or not we could have a further look see at my State's application.

Dr. VLADECK. Sure. We will look at it very carefully. The question is how much room we have within the statute.

The CHAIRMAN. And if you do not have enough, you will let us know what you would need. Is that fair?

Dr. VLADECK. I certainly will.

Senator GRASSLEY. I thank you for that opening, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Grassley.

And to pursue further health matters no doubt our most distinguished colleague, Senator Durenberger.

Senator DURENBERGER. Mr. Chairman, thank you.

Let me begin by thanking each of you for taking on the assignment you are taking on and for your patience with all of us today.

I am going to ask a couple questions. I have had a chance to meet with some of you. Mr. Broadnax, I really do want to spend some time talking with you, talking about Rochester and some of the neat things that have been happening up there in health care.

Bruce, if I might start with you. I am just reading from some notes here. It says, Dr. Vladeck has a reputation as a regulator, as a person who is skeptical about managed competition in general, markets in particular. Given the administration's alleged commitment to managed competition, he seems like an odd choice.

Would you respond to that?

Dr. VLADECK. Senator, I will not comment on the decision making process of the Secretary or the President in coming to this nomination. I am inclined to think it was very wise. But you would have to ask them. [Laughter.]

I think there has been a significant tendency in this town for quite some time to talk about health policy issues in terms of labels rather than substance and, particularly over the last decade, to engage in great debates about academic theory as opposed to practical policy.

If I may, the one thing that has most impressed me about the opportunity to participate on the task force on health care reform is the extent to which people from all kinds of backgrounds and with all sorts of records of positions of advocacy of one sort or another have been able to check their ideologies at the door and talk about what is likely to work and what is not likely to work, both in the policy sense, and in the political sense, recognizing the ex-

traordinary heterogeneity of this country and the diversity of health care systems and health care needs from one part of the country to another.

I think you will find that when the President makes his proposal about health care reform, it will have many elements consistent with what has been called managed competition and many elements consistent with what has been called regulation—

Senator DURENBERGER. Well, that is precisely what I figured. If I can interrupt you at that point.

I do not want to spend a lot of time in a dialogue here, except this is very, very, very, very critical. All of your background is very professional. You have made lots of commitments on the New Jersey PPS and things like that. You have made an incredible number of commitments in the area of advancing health reimbursement policy, medical reimbursement policy and so forth.

There is no question but with all of that couple hundred billion dollars and all those computers at your disposal, you can influence decisions that policymakers, whether they are in Mr. Ellwood's shop or if they are at the Secretary's level or at the President's level, with this large amount of information that has been captured across America at HCFA.

Literally, and I will just give you a theory and then maybe you will respond to it. Literally, if you believe in markets and if you believe in competition, and you believe in choice, and if you believe that the management ought to come from purchasing groups and accountable health plans, rather than the government, we do not need HCFA.

How would you respond to that?

Dr. VLADECK. Well, I would respond, Senator, that not only I personally, but I suspect many Members of the Congress as well as the executive branch, tend to have a somewhat proprietary as well as fiduciary feeling about the expenditure of funds that are raised through the tax system.

In fact, the Secretary and I have fiduciary responsibility towards the Hospital Insurance Trust Fund, of which, if confirmed, I will be the Secretary; and we have often both all sides of the aisle and all sorts of markets not been entirely content to let whatever the market produced play out when we are talking about public funds and particularly public funds that are held in trust.

I also think that even the most purely theoretical components of so-called managed competition model in health care would begin from the presumption that the existing market in health care does not work very well and does not look like a well-functioning private market ought to.

To a large extent, that is why we have the Medicare and Medicaid programs in the first place. So that in order to achieve some of the benefits that markets can produce in terms of choice, in terms of innovation, in terms of flexibility, in terms of diversity from one market place to another, it is necessary to intervene just as we intervene through the antitrust laws or through tax policy or through other things the government does to try to make these markets function better.

One could call that regulation or one could call that promotion of markets.



The CHAIRMAN. I just want to make it clear that in this committee it is all very well if something works in practice, but we want to know does it work in theory. [Laughter.]

Dr. VLADECK. When I come back, Mr. Chairman, should I be confirmed, in the course of my tenure I suspect there will be instances where answering a question by saying, "Well it should have worked in theory," will not be entirely satisfactory to all of your colleagues.

The CHAIRMAN. It will not do at all.

Sorry, Senator Durenberger.

Senator DURENBERGER. Well, that is all right. I mean, the notion of markets—it is sort of one of those either you do or you do not. Let's just deal with your experience in New Jersey.

What is the value of prospectively pricing a medical product?

Dr. VLADECK. Well, I believe, Senator, there were at least two issues in New Jersey that drove those considerations. The first is that, in fact, the market for in-patient hospital services cannot work like a market at all because consumers at the time of use of service have so little discretion about their need for service and frequently so little choice about where they are to be served.

The second thing that drove the system in New Jersey, as it has driven many of our other public interventions in these markets, is the fact that a significant proportion of the population cannot afford those services under any sort of market unless they are directly or indirectly subsidized by government.

Once you have government in the marketplace eager to throw around its market power by negotiating the best possible deals for itself, which we would criticize it for if it did not do, it is very hard to reconstruct anything that would look like a good market.

So that in order to provide equity for the private sector in those sorts of circumstances you have to establish a set of rules to make sure that the public sector as a fiduciary buyer for its beneficiaries does not push everyone around in a way that sticks the bill on various other groups in society in a way that would be unfair.

Senator DURENBERGER. Let me ask you one last question. The Urban Institute conducted a study examining disparity in doctor billing for Medicare—

The CHAIRMAN. In doctor bills?

Senator DURENBERGER. Yes, in doctor bills for Medicare patients in 59 selected MSA's in 1989. Miami is the most expensive major metropolitan area for a senior citizen to get sick in. Minneapolis is one of the least expensive. And based on the AAPCC, which is the average per capita cost, Medicare pays \$548 in premiums for a beneficiary in Dade County and \$309 in Minneapolis or in Hennepin County, the suburbs of Minneapolis.

In terms of implementing physician payment reform, the RBRVS system, and in terms of national policy for health reform, how would you propose that we protect the efficient dividers like those that exist in Minnesota, Oregon, northern California and other places?

Or, to put it differently, how are we in national health care reform going to bring down those outrageous prices in Miami?

The CHAIRMAN. Could I just add, or Rochester, NY; Monroe County, NY, which has around the same costs as Minneapolis.

Senator DURENBERGER. Yes, Rochester/Minneapolis.



The CHAIRMAN. The point here, would it not be, is that obviously some things make a difference or they would not have these outcomes be so different. So how do you encourage the outcomes you desire and then, as Senator Durenberger says, how do you deal with the successful activities when you are trying to change the universe.

Dr. VLADECK. Let me say a couple of things about that issue. The first thing one has to do is make sure you understand, to the extent you can, where those differences are coming from.

The CHAIRMAN. Yes.

Dr. VLADECK. And to the extent they come from differences such as educational activities or things of that sort, which is a matter of public policy you want to support, you should not only tolerate but probably encourage differences of that sort.

To the extent that it is just plain random variation, we have already moved under the Medicare program to begin to shrink that dispersion very significantly. I am not sure as a matter of public policy you ever want to shrink it entirely. This is an issue to which those of us from New York City are very sensitive.

Although when you adjust for input prices and for educational activity, New York City is a below median producer of health care services. Nonetheless, I have often believed that we should bring New York City's Medicare payment levels to those of some of the western cities, for example, as soon as we get our pro rata share of Bureau reclamation funds in the city of New York.

I think the real issue is—

The CHAIRMAN. That was meant to be an arch remark. [Laughter.]

Dr. VLADECK. Equity is not equality.

The CHAIRMAN. That is not a bad idea.

Dr. VLADECK. Well, I thought the Chairman might appreciate it and might begin working on it.

Senator DURENBERGER. Mr. Ellwood, my experience here with ASPE has been sort of mixed. I remember Bob Ruben, but it is hard to remember anybody since then. I do not mean to criticize anybody, but I think it is sort of a degree of commitment that administrations make to the policy arm of HHS.

I wonder if you can share with us just briefly what particular activities at or projects at ASPE you have been enticed to believe are going to be your responsibility so that you would want to leave that position to take on ASPE at this particular point in time.

Mr. ELLWOOD. Thank you, Senator.

ASPE does have a long and very positive tradition in earlier years, but it clearly had fallen into playing a less significant role in recent years. I would not have come if I did not think that would change. The Secretary has committed very clearly that ASPE should play a central role in the coordination and development in policy issues.

Already in welfare reform, that is beginning to occur. In health reform, my principal Deputy, Judy Feder, as you know, is deeply involved in the health reform effort. I think this is essential for several reasons.

I think it is essential first of all that there be somebody that is not directly delivering the services that sits back and thinks about

it. That does not mean they ought to develop the policy in isolation. Quite the contrary. An ASPE needs to work very, very closely with the operating divisions. But I think it is absolutely essential that that cross-cutting larger picture kind of interest be involved.

Second of all, evaluation. If we are going to be doing things, if we are going to be trying new ideas, if we are going to have bold health reform, welfare reform, and the like, by God we have got to learn from it. We are going to make mistakes and we have to admit those mistakes and have an agency that is responsible for finding that out. That is what ASPE is all about.

I am happy to say the Secretary has come through with her commitment in our budget, submitted to this Congress. There is an increase for ASPE research issues as well as staff. I think we are not back to where we were in the 1970's, but it is a substantial increase at a time when difficult choices are being made.

I believe that we can really make this a first-rate institution. But I also think that we need to interact closely with people like yourself and other Members of Congress because there is so much wisdom and background here. And, frankly, there needs to be some building up in ASPE. I think we need to learn more.

Senator DURENBERGER. Well, there is no more wisdom in this place than the Chair of this committee. The rest of us only sound like we know what we are talking about because we have spent a lot of time with the Chair as he tries to broaden our vision.

He brought the Secretary up short a couple times in her confirmation hearing by asking where is welfare reform. Not just because he has an investment in it, professional and long-term, and divorced from his own personal political involvement, but because he sees it in a much larger context of a national income security policy that may, in fact, have been partly responsible for the fact that many people in this Nation are in a situation today that tends to force a lot of us to broaden our definition.

So perhaps you can share with us a little bit the breadth of your understanding of what may be your charge as the head of ASPE to enlarge our public policy thinking about income security policy in general.

I must tell you, one of the things that bothers me a great deal about our approach to health care reform is that we are concentrating on extending an over medicalized definition of health to everybody in this country.

When I pick up my newspaper every single morning and see that one of the biggest health care concerns in America is drive-by shootings, violence and kids killing each other over sneakers, and all this random abuse that is going on in our society, to me that is a bigger health problem than these numbers we toss around that is so-called—

The CHAIRMAN. Is that how you use the term over medicalized?

Senator DURENBERGER. Yes. I mean, this is, all of our policies concentrate on accessing people to the highest and the best, the doctors and the hospitals, without broadening our—

The CHAIRMAN. As against do not shoot each other.

Senator DURENBERGER. You have sat here, Mr. Chairman, for thousands of hours talking about behavior. The social sciences do not get any respect for the psycho-social health problems we have

in our society. We sit here and debate them only in terms of mental health, outpatient, inpatient, stuff like that.

The CHAIRMAN. Yes.

Senator DURENBERGER. You are thinking about it in a much larger context. Mr. Ellwood's background and his writings indicate that he does as well.

I am curious because we are in a quandary here right now in reconciliation with a bunch of Republicans and some conservative Democrats, who want the President to put his hand on the third rail of spending, and he will not.

And yet, you know, as you sit here in the Chairman's chair and say, sure, I am going to pass that reconciliation bill as it is, then the question is what are you going to do for encores. Unless we get at that third rail, we do not make it. The third rail of reconciliation is combined with health care reform.

This is going to look partisan when it comes out, but there is no way that this administration is going to get us to pass cost containment and universal coverage that way.

But when you have the disparities that I just talked about in terms of Miami versus Minnesota, or New York City versus Rochester, it is unconscionable to take all of our health dollars and put them into accessing everybody to a broken down system, which means you take away money from communities and kids and families and pre-natal care and school systems that are struggling.

So welfare reform just seems to me in this context to be a much larger issue. I am just curious to the degree the Secretary and the President have emphasized with you how important it is to work with people like the Chairman of this committee, to broaden our National definition of income security and discuss with us the tax policies, the social insurance policies, all the income security issues need desperately to be changed.

Mr. ELLWOOD. I could not agree with you more. Just one brief remark about health reform. I did not think it was possible for something to make welfare reform look easier. But health reform does. So I endorse much of what you say. I think the larger health questions and the larger health of our Nation depends on children growing up in a world where they have control, where they have dignity, where work is valued, where family is valued, where communities are valued.

So unambiguously the reason I am here is because I believe this administration is deeply committed to these issues. I have spent my life time doing it. I have loved what I have done. I have worked with this committee. I have testified before it before.

Welfare reform and figuring out a way to, as the President has said, end welfare as we know it and find a genuine alternative is what I think is absolutely essential for this country.

The President has made that clear repeatedly, both informally to us in many, many ways at the Department, as well as in his public statements. The Secretary has as well.

This is not a President who is going to back off on one inch as far as I can tell. And the four elements that he has talked about over and over again stay. One is, part of what you have to do is make sure that if you do go to work, if you do play by the rules,



you get ahead. It is as simple of a rule as that. That is one of the reasons where health reform comes in.

Because the simple reality is, as much as you talk about the larger issues, one of the things that you know and anybody knows that deals with welfare recipients is they fear losing Medicaid. We have a system now that says, if you go to work we are going to take it away. That cannot be a sensible strategy. That cannot be reinforcing values of work and responsibility.

The CHAIRMAN. Would you mind if I interrupted with just one question?

Senator DURENBERGER. Sure.

The CHAIRMAN. You say welfare recipients fear losing Medicaid?

Mr. ELLWOOD. Yes.

The CHAIRMAN. How do you know?

Mr. ELLWOOD. First of all, I have done some studies where we have tried to look at it.

The CHAIRMAN. How do you know?

Mr. ELLWOOD. How do I know?

The CHAIRMAN. Yes.

Mr. ELLWOOD. First of all, informal discussions with recipients. This is one of the things they talk about almost constantly.

The CHAIRMAN. Oh.

Mr. ELLWOOD. The fear of—

The CHAIRMAN. What is your data?

Mr. ELLWOOD. Well, first of all—

The CHAIRMAN. I have had informal discussions where you would be amazed the number of things I have learned in informal discussions.

Mr. ELLWOOD. Mr. Chairman, I will plead guilty to a charge of not having—this is one of those areas where research is not as thorough as you might want. Having said that, it is an area I have researched. I have looked and seen for example—

The CHAIRMAN. I was just making Senator Durenberger's point. I want to say a kind word for Martin Gary before we have to leave. All these questions that are central to social policy and to the subject, and yet are not researched. We try. The pattern at HHS for 30 years has been to systematically know nothing about them and leave it to be something that, well, everybody knows.

Mr. ELLWOOD. Senator, if that is still true, if I am fortunate enough to be confirmed, 4 years from now then you had better call me over the carpet. I have spent my life trying to make sound analysis and form sound policy.

The CHAIRMAN. You will not be here 4 years from now. Your average tenure is 19 months.

Mr. ELLWOOD. Fine. [Laughter.]

Nineteen months when I am back wherever, if you will challenge me then. Because I think that is critical.

Let me just make a few other points.

The CHAIRMAN. That is why Senator Durenberger asked the question.

Mr. ELLWOOD. And he is right to ask the question. I think it is a very important set of issues.

But I do think making sure that if you play by the rules you can get ahead is fundamental. Child support enforcement is also



central. Employment and training and ultimately a transitional welfare system, one that moves toward saying that at some point it ends and it is time to go to work. We will provide you with a job if you need it.

Those kinds of elements have been what the President has talked about constantly. It is what we are doing. In terms of the ASPE Bureau we are working very closely or will work very closely with ACF, the children and families part of HHS, as well as Departments all over this government because it does cross Food Stamps, Housing and Urban Development and the like to do all those things.

One final point on timing. I do think there is a good argument for the timing that has been done here. I think health reform because it is bigger and also because it is an important part of making work pay and moving forward, it is valuable to have that in place, to have worked on some of the earned income tax credit increases which I also think are absolutely essential to making work pay for people.

Those things logically in my mind really do come first.

The CHAIRMAN. Good.

Mr. ELLWOOD. So that, I think the fact that it is not done in the first 100 days does not mean it will not be done in the first 1,000 because it is absolutely first.

Senator DURENBERGER. Thank you.

David, I do hope that you are going to be here 4 years from now. I have to tell you, you are going to be a lot wiser because of your relationship with the Chairman at the end of that 4-year period, and a lot older for 4 years. [Laughter.]

Let me say to you, Mr. Chairman, that I have known Paul Ellwood a lot longer than I have known his son and Paul is the inventor of HMO's, among other things, and one of the leading folks in managed competition. He has an incredible number of professional accomplishments to be proud of.

But there is nothing in his life he is more proud of than that young man right there.

The CHAIRMAN. That is a very nice way to put it. We thank you very much, sir.

Senator DURENBERGER. Thank all of you very much.

The CHAIRMAN. Can I just inquire? Is Jean Hanson still in the room? There you are. Do not despair. We are getting to you very shortly.

One last set of questions to say this. I was pleased to hear a number of you mention Social Security. But I cannot take any pleasure, and this committee can take none, in the fact that in this panel of distinguished, accomplished public servants there is no Commissioner of Social Security.

The job has been vacant since last September, an unprecedented span. I have a letter from the President dated April 21 in which he tells me that the selection of a nominee for Commissioner of Social Security is a high priority and our search must be thorough and rapid and nothing happens.

Let me put it this way. I guess I am just going to take the chance just to speak to you and anybody can say what they would like to do in response. I am now 17 years on the committee and nothing

has been more baffling than the dysfunction that has sort of just settled into the Social Security Administration.

Once an exemplar of good public administration, the Commissioners began turning over faster and faster. Toward the end of the Carter administration one gentleman served there 9 months. Checked out. Punched his ticket and moved on to K Street. Nothing personal about that.

The last three Commissioners, too, are now heading up major fundraising activities, mass mailings, screaming at senior citizens that the Social Security Trust Funds are being looted by the Clinton administration and there will be nothing there when they come.

The majority of nonretired adults do not think they will get Social Security. This is a statement about trust in government that I do not know what the equivalent would be.

Senator Durenberger was talking earlier on about this article by Robert Samuelson in the Post this morning and he said our overriding need today is to rebuild confidence in government and in ourselves by being more rigorous in what we demand of it.

Now the pattern we have had here is that, you begin as a Department, as the Social Security Administration, which is folded into the Federal Security Administration by the Social Security amendments of 1939, which frankly I am afraid created families of dependent children, and this is where you start.

And it does not make any claims on anybody. I began about 12 years ago—well, I will tell you two stories. I am going to just make you sit here until I have told you these stories or otherwise you will never get your job.

I wanted to get a Social Security card that would look like something, feel like something. In the 1930's we got out this little pasteboard card, and it was cheap, and it was the 1930's and it would do. And it also said, since it was charged as in Hitler's Germany President Roosevelt was issuing an identify card, it used to say, "Not to be used for purposes of identification." It used to say that on the bottom of the card.

Now, of course, you get your Social Security number in the maternity ward on your birth certificate often. I wanted to get a better piece of plastic, you know, something American Express gives you, a little hologram perhaps. In the least because there was the issue of immigrants and the cards being printed in Tijuana and given to a person to prove he is properly here. Something you can show an employer that says, I am properly here.

I got a bill passed, an immigration measure, to say we will put a tamper-proof card. It took about a year. And finally it arrived in the mail and it was the same piece of pasteboard. Only it was explained to me that there were invisible fibers implanted that were instantly identifiable in an FBI lab, not by an employer or not by anybody who might want to say, do these people know who I am.

Now that is a decline. They did not know what Congress—they did not give a damn what Congress wanted. They knew they were going to keep to that piece of pasteboard. You come in here. Everything we have done so far indicates Social Security is of no interest to you. Maybe it is generational to you. I do not know why. But it is of no interest to you.

I have to tell you, Mr. Vladeck, the President sent us up a tax bill we are going to have to try to get 11 members on this side to pass. One of the provisions in it takes the ceiling, the cap, off contributions to hospital insurance. An unabashed statement that we will use revenues to the trust fund as general revenues. We will disassociate, we will disconnect benefit payments—I mean insurance contributions with returns. Saying it is quite possible for people to be paying \$90,000 a year in hospital insurance and getting the same people to pay out. And because it would make the income profile look better when we say who we are taxing. I mean as if the idea of contributory insurance could not exist. The idea has been lost.

Roosevelt had a very strong sense that this had to be contributory. You had to have your name, an account number, contributions posted and we have much evidence of that and we know about his conversations.

There was a man named Luther Guilick, who was a member of the Brown-Low Committee that worked out the 1939 arrangements, and who was a professor of public administration in that old tradition at Columbia. He described how in 1940 he was down here and he called on President Roosevelt.

He said, you know, I have been wondering about these things. He was a public administrator type. I believe the kind of work that Dr. Vladeck has to do, try to keep the recordkeeping down to a minimum. You know, this is a pay-as-you-go system and we really—why post all the money sent in weekly contributions.

And you can just hear Roosevelt say, well, now, Luther, I am sure you are right about the economics. But it was never an issue of economics. I want everyone to have their name and account number and those entries so that no damn politician could take away my Social Security. Yet, it is fading. It is fading.

People do not think they are going to get it. And nobody in HHS cares. What the hell do we care what people think? Do you think they are going to believe you are going to get a health insurance program if they do not even think they are going to get their retirement benefits?

Every day the mail arrives. We subscribe to these organizations. My poor wife does and these usually come in and scream, Elizabeth Moynihan, open, urgent, do you know that your trust fund is looted and there is not a penny in it. You will never get anything.

I have been trying to get the Social Security Administration to send out an annual statement to people about what they have contributed and what, if they were to die, what the survivors benefits for their children is. I bet you would find the number of people who know they have survivors benefits is very low, at least in the early ages. What disability benefits would be, and if they continue at age 65 what their retirement benefit would be.

The largest cost for doing this would be the stamp because we can print it out now. It does not happen. I have a letter here. When we learned there was going to be a health security card, I wrote the President and I said, I hope that will have the same number as the Social Security. It was very clear, no one had thought about it.



And he wrote back and said, interesting idea, we will continue to talk with you. Then I mentioned in that the idea of an annual statement. And I get this long negotiated letter, you know, out of OMB, somebody in HHS saw it. And they say, yes, we will think about it. Down at the bottom the President says he thinks it is a great idea.

But the organizations do not. These are not meant in any way to be hostile. I am just trying to say to you, you have this problem.

I finally learned from David Ellwood what one of the problems was. They feel that if they started sending out these annual statements—Canadians do it routinely and every savings bank does it.

All right, let me just go right down the list. Which of you has ever received a statement from Social Security telling you what you have earned and what your benefits would be?

[Mr. Ellwood raises his hand.]

The CHAIRMAN. You have because you sent for it. You do not count. I know you know. You can get it if you ask. Professor Rabb, are you sure they know your name? That they have taken and put down any of your contributions. What evidence do you have?

Ms. RABB. I do not know.

The CHAIRMAN. Yes, you do not have any evidence. My first, I started in 1943. If I had not sent for one of these things, I would have no idea that they knew where I have changed addresses and what my income was.

Ms. LaVelle?

Ms. LAVELLE. Never.

The CHAIRMAN. Yes. Would it not be interesting to you to know? You know, in your twenties you would throw something like that away and in your thirties you would lose it. But in your forties you would find a drawer for it.

You know, there is a Canadian pension plan. This is a Canadian pension plan contributor's statement. It is very easy. It just tells you what you put in and what you are going to get, you know, \$556.25 a month at age 65. Well, you like to know that as you get towards that.

Mr. Broadnax, you and I know about getting towards that, do you not?

[Mr. Broadnax nods in the affirmative.]

The CHAIRMAN. But we will not do it. Now I learned that they feared they might in the first instance, a lot of people will write in and say, hey, no, no, no. I made—I was working in 1962 and you do not have me working here. Or there would be some question. They would do a little check. You know, it would help the system get its accounts straight because people would say I worked that year or I did not work that year.

There would be 18,000 man years required to fix it up so they do not want to do it. In 12 years of pressing this no one from Social Security or Health and Human Services ever said to me that is what they really think. And you now have a deep problem. And you make it—you confuse us.

I have to say to you, Mr. Klepner, the first thing you have done in this administration, you have not done anything about Social Security. I get a letter, the President thinks this is a good idea, but none of you guys do, so to hell with it.



But you do send us up a proposal for a new middle-class entitlement—immunization. Now my grandson is going to get free immunization, which I really think is important. A new middle-class entitlement which you do not propose to pay for. You were going to tell us how to pay for it, but, no, you have not.

You know, you cannot get away with that. And you do not care about Social Security. Now, if you want that President's health program to get anywhere you have to give people a sense that they can believe the government. I do not know why people would believe.

If they do not, then here we have a system that has been paying benefits I guess since 1940—53 years, not a day late, a dollar short—and people do not believe it. That ought to concern you.

I did not mean to be too extensive. But I would like to put the President's letter in the record.

[The letter appears in the appendix.]

The CHAIRMAN. You have a problem. I just hope you will not forget where you come from. You come from the Social Security Administration. You are the direct descendants of that.

I once again thank you all for coming, for being so open and generous. You have very distinguished careers behind you and ahead of you and great good fortune in all of them. Make yourself available to the Senators who might like to have you call on them and we will be reporting you out tomorrow morning. Your seals of office will be delivered sometime next week.

With that, thank you very much, indeed.

Ms. RABB. Thank you, Mr. Chairman.

The CHAIRMAN. The committee will stand in recess for 10 seconds while we try to get Ms. Hansen forward.

[Whereupon, the committee recessed briefly.]

The CHAIRMAN. The committee room will be in order. I would like to thank our guests and speed the parting.

Now, will Jean Hanson, nominated to be General Counsel of the Department of the Treasury come forward, please. Ms. Hanson, you have done. I see you have done that.

It is a very great pleasure to have you here and I think you have someone with you. You have some numbers of persons with you. Would you kindly introduce that young fellow with a big grin.

Ms. HANSON. Yes, I would love to introduce my family. They came down from New York today to be with me. My husband, Barney Hauptfuhrer.

The CHAIRMAN. Mr. Hauptfuhrer, good morning, sir.

Ms. HANSON. My daughter, Catherine.

The CHAIRMAN. Hello, Catherine. Now stand up.

Ms. HANSON. And my son, Coley.

The CHAIRMAN. Stand up, sir. Good. Nice wave.

Welcome to you. I do not regret that it took a long time, it just sometimes does. The floor is yours and we look forward to hearing your testimony.

#### STATEMENT OF JEAN HANSON, NOMINATED TO BE GENERAL COUNSEL, DEPARTMENT OF THE TREASURY

Ms. HANSON. Thank you. I just have a brief statement.

The CHAIRMAN. Yes. Which we will place in the record as if read.

You go forward just as you like.

Ms. HANSON. Thank you for giving me the opportunity to appear before you today as the nominee for the position of general counsel.

The CHAIRMAN. Excuse me. I want that door closed. Ms. Hanson is testifying.

Thank you.

Ms. HANSON. Thank you for giving me the opportunity to appear before you today as the nominee for the position of General Counsel of the Department of Treasury. It is a privilege to be here. I sincerely thank Secretary Bentsen for recommending me to the President and I thank President Clinton for nominating me. And I thank you greatly for the expeditious scheduling of this hearing.

President Clinton and Secretary Bentsen are committed to revitalizing the American economy and investing in America's future, improving the living standards for all of us, our children and our grandchildren. These are important goals.

The Treasury Department, as an institution, and Secretary Bentsen, as its leader, will play important roles in implementing the President's plan.

The General Counsel of the Treasury serves as the chief legal officer of the Treasury Department, providing advice to the Secretary and other Department officials on legal issues that arise in the operation of the Department.

Although the responsibilities are broad, they break down into three principal areas. First, the General Counsel provides legal representation directly to the Secretary and to other senior departmental officials on legal questions that they are presented.

Second, the General Counsel supervises and directs the activities of the legal staff within the office of the General Counsel and guides the work of the chief counsels in the individual Departments and Bureaus.

And third, the General Counsel acts as the chief legal officer, representing the Department in legal matters within the administration and before Congress.

In my more than 16 years as an attorney, I have been fortunate to receive broad exposure in many of the types of issues that arise in the course of Treasury activities. These include financial services, securities, tax and corporate law, as well as financial institutions.

If confirmed, I am committed to working to provide the Treasury with effective and efficient legal services and support to accomplish the goals of the administration and the Congress.

I am aware of the importance of maintaining a close working relationship between the executive and legislative branches of Government. If I am confirmed, I look forward to working with you, Mr. Chairman, with the committee and with Congress.

I will undertake the challenging responsibilities of the General Counsel to the best of my abilities.

The CHAIRMAN. We cannot ask more than that. Let's see, we know of your quality, Ms. Hanson, or you would not be here before us otherwise. You were a partner of Fried, Frank, Harris, Shriver and Jacobson, particularly recommended to our committee. Your publications have been exemplary.

Although I do not know, what is this thing called Savvy magazine in which you wrote an article called, "Big Deals."

Ms. HANSON. Actually, I did not write the article. I was featured in one of their articles.

The CHAIRMAN. Oh, wait. This says honors and awards. You consider it an honor to appear in Savvy magazine? Well, I do not ask you to press on that. Oh, I see, no, you write, "A Guide to Regulation S under the Securities Act of 1933."

Ms. HANSON. Right.

The CHAIRMAN. That is what makes you a partner in Fried, Frank, obviously. [Laughter.]

You heard, if you were able to be present earlier this morning, a rather difficult exchange that attended the appearance of Charlene Barshefsky and the question of conflict of interest. I am sure you have been asked, I know you have been asked this matter, by the administration.

But are there any potential conflicts of interest that you anticipate in the position you are now going to assume, or in the period which will come when you have left government and resumed your practice of law, as I assume you will?

Ms. HANSON. I do not anticipate that there are any conflicts of interest. I have worked closely with officials within the Treasury Department and with the Office of Government Ethics in the course of preparation for this hearing and for confirmation in resolving issues that could even potentially be a conflict of interest. That has been done in the ordinary course and resolved to everyone's satisfaction.

I have never represented a foreign government to my recollection. And as I leave my position, if I am confirmed, and as I leave my position, I do not anticipate that I will have conflicts that will be difficult or impossible to resolve. If I had thought that I would have those sorts of conflicts, I would have thought very seriously about accepting the position if I thought it was going to materially affect me in the future.

I just do not think that will be the case.

The CHAIRMAN. Well, I do not think we could or ought to ask anything more of you than that. Everyone else being elsewhere, as has been the case all day, I would like to thank you for your appearance here, to assure you that you have the confidence of this committee and that before too very long we will have you in office so that you can—

I assume you are working downtown right now.

Ms. HANSON. As a consultant, yes.

The CHAIRMAN. Yes.

Ms. HANSON. I am working on a consultant basis.

The CHAIRMAN. But you cannot sign anything.

Ms. HANSON. That is right.

The CHAIRMAN. Exactly. Well, we will get you—

Ms. HANSON. Or make any decisions.

The CHAIRMAN. Or make any decisions. Well, we will get you past that in no time at all. Thank you for coming.

Ms. HANSON. Well, I thank you.

The CHAIRMAN. Thank you for bringing your husband and children with you. Thanks very much.

Ms. HANSON. Thank you.

The CHAIRMAN. The committee now stands adjourned.  
[Whereupon, at 12:35 p.m., the hearing was adjourned.]



# APPENDIX

## ADDITIONAL MATERIAL SUBMITTED

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### PREPARED STATEMENT OF KENNETH S. APFEL

Mr. Chairman and Members of the Committee, my name is Kenneth Apfel. I am honored to appear before the Finance Committee today as President Clinton's nominee for the position of Assistant Secretary for Management and Budget at the U.S. Department of Health and Human Services. As you know, I worked for the Senate Committee for the past thirteen years, and I still feel very much a part of the Senate Finance Committee. Indeed, it feels very strange today sitting here in front of you, rather than behind you!

Mr. Chairman, I have been nominated for a position with very wide scope. The Assistant Secretary for Management and Budget serves as the senior budget official and chief financial officer for the Department. In this capacity, the Assistant Secretary for Management and Budget works closely with the Secretary to formulate and execute the third largest budget in the world, a more than \$600 billion budget that touches the lives of nearly all Americans. In addition, the Assistant Secretary provides advice and guidance to the Secretary on administrative and financial management matters—excluding personnel administration—and provides oversight and direction on the financial organizations and activities of the Department.

Mr. Chairman, I believe I would bring a lot to the job. My educational background is in social policy and public administration, and I have a solid background in the main areas of HHS policy—health care, Social Security, family policy, income security, child support and poverty. I also have expertise in U.S. budget and finance policy, given my years of involvement with the Senate Finance Committee and the Senate Budget Committee. I also served as a Presidential Management Intern with the Budget Division of the U.S. Department of Labor and at OMB. I look forward to the challenges of the job if confirmed by the Senate.

Finally, I cannot conclude without recognizing one particular member of this Committee. As you know, I worked for Senator Bill Bradley for the past ten years. We've been through a lot together—the landmark Social Security legislation in 1983, the enactment and subsequent repeal of the Catastrophic Care Act and virtually every major health, welfare and human service reform enacted in recent years. I am forever in his debt—for his guidance, leadership and friendship. I cherish those ten years. And, Mr. Chairman, I learned an important lesson from Senator Bradley and from my experiences with this Committee: I learned first-hand that the choices that the members of the Finance Committee face are incredibly tough ones. If I am confirmed by the Senate, I pledge that I will do my level best to serve the President, Secretary Shalala and the American people and to help this Committee in any way possible in its deliberations.

## NOMINATION REFERENCE AND REPORT

AS IN EXECUTIVE SESSION,  
SENATE OF THE UNITED STATES,  
April 27, 1993.

Ordered, that the following nomination be referred to the Committee on Finance:

Kenneth S. Apfel, of Maryland, to be an Assistant Secretary of Health and Human Services, vice Arnold R. Tompkins, resigned.

, 1993.

Reported by Mr.

with the

recommendation that the nomination be confirmed.

## FINANCE COMMITTEE QUESTIONNAIRE

1. Kenneth Stephen Apfel
2. 7118 Cedar Avenue, Takoma Park, MD 20912
3. Place of Birth: Worcester, Massachusetts.  
October 12, 1948.
4. Married to Caroline S. Hadley.
5. Children: Derek H. Apfel, 10 yrs. & Dana H. Apfel, 7 yrs.
6. Education:  
University of Texas at Austin, TX. 1976-78 M.P.A.  
Northeastern University, Boston, MA. 1972-73 M.Ed.  
Univ. of Massachusetts at Amherst, MA. 1968-70 B.A.  
Worcester Jr. College, Worcester, MA. 1966-68 A.A.  
Shrewsbury High School, Shrewsbury, MA. 1962-66 Diploma
7. Employment:
 

10/82-3/93	Senator Bill Bradley's Office: Washington, DC. Legislative Director 1989-93 and Legislative Assistant 1982-88.
2/80-10/82	US Senate Budget Committee: Washington, DC. Budget Analyst.
6/78-2/80	US Department of Labor: Washington, DC. Presidential Management Intern.
6/77-8/77	Austin Community Mental Health Center: Austin, Texas. Internship.
8/73-6/76	Newbury College: Boston, Massachusetts. Director, Veterans Affairs Office.
6/73-8/73	Watertown Youth Center, Watertown, MA. Counselor.
1/73-6/73	Boston State Hospital, Boston, Massachusetts. Internship.
9/72-12/72	Massachusetts Department of Public Welfare, Boston, Massachusetts. Internship.
6/72-8/72	Tomlinson Builders, Amherst, MA. Laborer.
1/71-5/72	Firematic Sprinkler Co., Worcester, Mass. Production controller and shipper.
8. Government activities: All government experience highlighted in #7 above.

9. Memberships:  
 Old Town Takoma Civic Association (community association)  
 Sherwood Forest Club (community association)  
 Maryvale Elementary School PTA
10. Political Affiliations:  
 Registered Democrat for past 15 years. Have contributed to various Democratic organizations over the years (DSCC, DNC, etc.).
11. Honors:  
 Phi Kappa Phi Honorary Fraternity - 1977  
 Phi Theta Kappa Honorary Fraternity - 1967  
 LBJ School Merit Fellowships - 1976-8
12. Publications:  
 \*Co-author of Policy Research Project on "The Transition of Public Service Employment Participants to Unsubsidized Employment", funded by the US Dept of Labor and carried out by the LBJ School of Public Affairs, Austin, Texas: 1977-8.  
 \*Co-author of Policy Research Project on "Alternate Care Services for the Elderly", funded by the Texas Dept. of Human Resources and carried out by the LBJ School of Public Affairs, Austin, Texas: 1976 - 1977.  
 \*"Learning Experiences, Educational Reform, and Free Universities", Spectrum, vol. III, no. 3, 1970.
13. Speeches:  
 No formal speeches given over past three years; several short presentations have been made to various constituent groups in my capacity as professional staff member for Senator Bradley.
14. Qualifications:  
 Solid background in the main areas of HHS policy-- health care, Social Security, family policy, income security, disability policy, child support and poverty. Solid expertise in budget/finance policy, based on years of involvement with the Senate Finance Committee as well as positions with the Senate Budget Committee and earlier at the Budget Division of the Labor Department and rotational assignments at OMB.



United States

**Office of Government Ethics**

1201 New York Avenue, NW., Suite 500

Washington, DC 20005-3917

May 3, 1993

The Honorable Daniel P. Moynihan  
Chairman  
Committee on Finance  
United States Senate  
Washington, DC 20510-6200

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Kenneth S. Apfel, who has been nominated by President Clinton for the position of Assistant Secretary for Management and Budget at the Department of Health and Human Services.

We have reviewed the report and have also obtained advice from the Department of Health and Human Services concerning any possible conflict in light of its functions and the nominee's proposed duties.

Based thereon, we believe that Mr. Apfel is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

A handwritten signature in dark ink, appearing to read "Stephen D. Potts".

Stephen D. Potts  
Director



## RESPONSES OF MR. APFEL TO QUESTIONS SUBMITTED BY SENATOR HATCH

## QUESTION 1

How do you see the role of your office vis-a-vis the various agency budget offices, such as those at NIH, SAMSHA, HCFA, etc?

## ANSWER

- ▶ In addition to having oversight responsibility for the entire Health and Human Services budget, the office of the ASMB serves as the umbrella organization for coordinating all Departmental budget functions and for advising the Secretary on the budget process and decision-making. It will be my task to provide the leadership and direction to all agency budget offices that will enable the Department to meet its budget responsibilities and program goals.

## QUESTION 2

What is the status of the proposal to move the Army Medical Museum adjacent to the Hubert H. Humphrey building? Will your plans involve any new requests for funds?

## ANSWER

- ▶ The FY 1994 budget does not contain any funds for the museum.
- ▶ As you may know, there are still some important details that need to be resolved before final resolution of this matter -- site location, who will operate the museum and how it will be financed. The National Capitol Planning Commission also needs to approve this project. This approval will be based, in part, on the structural survey now underway and an environmental assessment. The Department will also need to develop an acceptable plan for the relocation of the child development center playground to make space for the museum.

## QUESTION 3

Will you serve as the Chief Financial Officer of HHS?

## ANSWER

Yes. The ASMB is the Chief Financial Officer for HHS. The ASMB functions, combining Finance, Budget, Information Management, and Grants and Acquisitions, provide the ideal situation for taking a comprehensive approach to improving the Department's financial management functions. I look forward to the opportunity this provides for accomplishing the CFO Act goals of associating program performance with funding and integrating the budgetary, accounting and financial management activities of the Department.

## QUESTION 4

Last year, legislation was passed authorizing FDA to charge user fees in order to provide additional financial resources for new drug approvals. FDA promised these fees would be used to hire new personnel to expedite the drug review process.

--What steps will you take so that consumers and industry may be assured that user fees will be used specifically for hiring new drug examiners to speed up the review process, and that these fees will not be directed to other purposes?

--Could you outline the additional user fee proposals you are recommending for FY 1994?

## ANSWER

- ▶ The Department is committed to implementing the Prescription Drug User Fee Act. The President requested a supplemental appropriation to allow FDA to collect \$36 million through user fees in FY 1993. I am happy to note that the House Agriculture Appropriations Subcommittee included this request in its mark-up of the non-Stimulus FY 1993 Supplemental Appropriations Bill. These fees will only be available to increase the number of drug applications reviewed - in order to reduce the time needed to approve an application and make these important drugs available more quickly to the American public. In FY 1994, the Department is seeking to collect \$54 million in user fees to continue implementation of the Prescription Drug User Fee Act.
- ▶ The additional user fees the Department is proposing are part of the Administration's response to the public demand for deficit reduction. The proposal is to collect \$200 million of user fees in FY 1994 for FDA activities related to the safety and effectiveness of non-prescription human drugs, medical devices, and other FDA-regulated products. The objective is to have industry bear a share of the cost of FDA operational expenses to compensate for the benefits these businesses accrue as a result of FDA's activities.

## QUESTION 5

I assume we may count on your being accessible to Members of Congress and their staffs who might have issues of interest or concern they wish to bring to your attention or that of the Secretary?

## ANSWER

Yes. I believe our success in tackling the challenges before us lies in timely and honest sharing of mutual concerns. I will seek to keep communication channels open with Members and staff and will certainly be available for any discussions on Departmental issues.

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## PREPARED STATEMENT OF CHARLENE BARSHEFSKY

Mr. Chairman and distinguished members of the Senate Finance Committee: It is an honor and privilege to appear before you today as President Clinton's nominee for the position of Deputy United States Trade Representative. It is a special honor for me because I have spent nearly two decades practicing law and counseling clients in the international trade field, spanning the gamut from advocacy to the development of global trade strategies for domestic companies, from commercial counseling to the conduct of intensive negotiations.

Mr. Chairman, I have long looked forward to the opportunity to serve my country in the public sector. I am a first generation American. My parents instilled in me a strong sense of public responsibility and civic duty. Throughout my career in the private sector, I have tried to uphold those values through various activities in Bar Associations, the Court of International Trade, and through work with various institutions of higher learning in the Washington area. To have the opportunity, for the first time in twelve years, to serve my country is a honor of the highest order, and the culmination of a life-long desire.

Throughout my career in the private sector, I have represented the commercial interests of my clients. I have had the advantage of representing domestic and foreign clients and have a strong appreciation of the needs of business in the international arena, as well as an understanding of the often broader policy objectives that guide the interests of the United States in international markets. This experience should prove invaluable in helping to create and realize genuine commercial opportunities for businesses as I pursue the difficult challenges that await me as Deputy USTR, should you confirm me for that position.

## IMPORTANCE OF THE PACIFIC

If confirmed, one of my principal responsibilities will be trade relations with the nations of the Pacific. This region is one with unprecedented opportunities and challenges for the United States. The opportunities are enormous: the countries in this region are the fastest growing in the world today; the ASEAN countries alone are collectively our fourth largest trading partner. Japan and the United States together account for 40 percent of the world's GNP, and China's growth rate averages nine percent per year. U.S. businesses have already begun to capitalize on the commercial opportunities that exist in the region: last year, trade across the Pacific exceeded trans-Atlantic trade by fifty percent.

But the trade challenges presented by the Pacific region are also vast. During the past decade, our trade deficits with Japan alone have totalled nearly half a trillion dollars. Our trade deficit with China now totals 18.2 billion dollars a year. Despite some significant progress and good will on both sides, we continue to have a number of troublesome market access issues with Korea. And protection of U.S. intellectual property throughout the region remains a major concern.

## JAPAN

Any serious and systematic approach to improving our trade relations with the nations of the Pacific must begin with our relationship with Japan. Japan is critically important to our long-term economic and trade interests.

Despite prolonged negotiations and extraordinary forbearance on the part of the United States, traditional market access issues continue to dominate the trade agenda with Japan. Although progress has been made in addressing some issues, the progress as a whole has not been sufficient to provide our companies with genuine access to the Japanese market in many cases. Too often, when certain trade barriers have been negotiated away after enormous effort, new barriers have sprung up to take their place.

As President Clinton stated following his meeting with Japanese Prime Minister Miyazawa in April, at a time at which we are making fundamental efforts to put our own domestic economic house in order, we must also bring some fundamental change to our relationship with Japan. Our security relationship will remain strong, but we will bring a new emphasis to the economic side of our relationship. We will ask Japan to join us in a new partnership based on shared responsibility. As we undertake the difficult tasks that our trading partners have long been urging us to do, Japan must assume its responsibilities as one of the primary beneficiaries of the global trading system and assume its role as an engine for global economic growth.

Japan and the United States have agreed to identify specific sectoral and structural issues for bilateral negotiation by the time of the G-7 summit, which convenes in Tokyo in July. We are currently establishing our priorities for these negotiations within the Administration. We will be seeking concrete results from these negotia-

tions, results that provide a tangible increase in market access for U.S. products, services, and suppliers. We are also asking that Japan do its part to help bring the Uruguay Round to successful conclusion by December 15.

At the same time, and equally important, we will insist that Japan fully implement the complete range of bilateral agreements that have already been concluded, in ways that provide measurable increases in market access for U.S. and other non-Japanese suppliers. We will not hesitate to use U.S. trade laws when necessary to enforce our rights under these agreements. Ambassador Kantor has already demonstrated our intentions in this regard through his recent announcements of possible U.S. trade action against Japan in connection with our bilateral construction and supercomputer agreements.

#### CHINA

China represents an enormous potential market for U.S. goods and services. Over the past decade, it has achieved the highest growth rate in the world and has taken some steps toward a more market-based system. In addition, Chinese interest in accession to the GATT holds the promise of a more open market to competitive foreign products and services.

Yet serious concerns remain regarding our relationship with China, both within the trade arena and in other areas. As Ambassador Kantor pointed out in his March testimony before this Committee, China's human rights practices do not conform with international standards, and its arms sales jeopardize our global non-proliferation efforts.

China's implementation of its trade agreements has been mixed. China has been abiding by the terms of the agreement on intellectual property rights. The Chinese have also taken several steps toward implementing the market access agreements, and we are working closely with them to ensure full implementation. In addition, we are planning to launch an initiative next month to begin consultations to open China's lucrative services market, an area in which the United States is extremely competitive.

We intend to work closely with Congress to ensure the totality of our relationship with China—including MFN—is appropriately addressed. With regard to trade in particular, our goal is to reach an equitable and balanced relationship with China.

#### KOREA

Korea remains a very important market for U.S. exporters. During formal trade consultations held with Korea in mid-March, the first since new administrations came into power in each country, we emphasized that the United States would accept nothing less than full implementation of our existing bilateral trade agreements. The conclusion of these agreements was an important first step in further opening the Korean market to U.S. products and services; it is now time to ensure that we realize all the benefits from the agreements that were negotiated. As we build mutual trust, we have every confidence that our trade relationship with Korea can expand, to our mutual benefit.

#### ASEAN

The six countries of the Association of Southeast Asian Nations (ASEAN)—Thailand, Malaysia, Singapore, Indonesia, Brunei, and the Philippines—are of vital importance to the United States. Collectively ASEAN is our fourth largest trading partner, and these nations are among the most dynamic economies in the region. Malaysia and Thailand, for example, have GDP growth rates of about 10 percent per year, Singapore 8 percent, and Indonesia 6 percent. As these countries expand their economies, U.S. businesses can and should be able to play a major role as suppliers for needed infrastructure projects, high technology, and other products.

#### APEC

The Clinton Administration is determined to make real progress in our trade relations with all of the nations across the Pacific—to make sure that the United States is as anchored in trade terms in the Pacific as we are with the nations of Western Europe and the Americas. The Administration strongly believes that the United States can and should play an active, positive role in enhancing U.S./Asian economic cooperation. In particular, we believe we should continue to address together ways to expand our trade and investment relations.

This year we are presented with a unique opportunity to advance mutual trade cooperation in the Asia-Pacific region, through U.S. chairmanship of APEC, the Asia Pacific Economic Cooperation forum. The Clinton Administration intends to utilize



this opportunity to work closely with the APEC countries to demonstrate our commitment to this vital and exciting region. Under United States leadership, we hope to begin to demonstrate to the global trade and investment community APEC's vision of dynamic interdependence, as well as APEC's ability to represent the diversity of our region with an active, singular voice in trade and investment matters of mutual interest.

#### IMPORTANCE OF LATIN AMERICA AND THE CARIBBEAN

Another of my major responsibilities will be trade with Latin America and the Caribbean. The Administration views this region as a significant region for pursuing U.S. trade and investment interests. It has emerged as a dynamic growth region in the process of market-oriented economic reform. U.S. exports to the region are expanding almost three times as fast as U.S. exports to the world.

The Administration intends to pursue further market opening in the region, both multilaterally through the Uruguay Round and on a bilateral basis. On a bilateral basis we have an intense and ongoing dialogue with virtually every country in the region, utilizing the trade and investment framework agreements negotiated in 1990-91. We are also utilizing U.S. trade law, such as Special 301 for intellectual property rights, to pursue barriers of concern to U.S. firms.

#### ETHICAL STANDARDS

Before I conclude, Mr. Chairman, I would like to address the issue of ethical and professional standards, about which I feel so strongly. I am committed to the highest standard of ethical conduct for government officials. In that spirit, I have taken formal steps to ensure that no prior affiliation or representation will affect my independent judgment or create even the appearance of a conflict of interest. In this regard, I will consult with and abide by the decisions of the ethics officials at USTR and the White House. In practical terms, my recusal means that I will not participate in particular matters involving the Government of Canada, the North American Free Trade Agreement, the Canadian softwood lumber industry, and the British steel industry.

As I am sure you are aware, the Deputy USTRs divide between them both substantive and geographic responsibilities. My primary responsibilities will include Asia, the Pacific, and Latin America. Ambassador Yerxa, who just testified before the Committee, will be responsible for North America, NAFTA, and Europe. He will be responsible for all areas in which I am recused; my recusals will in no way interfere with my ability to carry out my responsibilities if I am confirmed as Deputy USTR, nor diminish the effectiveness of the agency.

Mr. Chairman, thank you very much for the opportunity to appear before you this morning. I look forward to working closely with the Committee.

FN267

## NOMINATION REFERENCE AND REPORT

AS IN EXECUTIVE SESSION,  
SENATE OF THE UNITED STATES,  
April 27, 1993.

Ordered, that the following nomination be referred to the Committee on Finance:

Charlene Barshefsky, of the District of Columbia, to be a Deputy United States Trade Representative, with the rank of Ambassador, vice Julius L. Katz.

, 1993.

Reported by Mr.

with the

recommendation that the nomination be confirmed.

**RESPONSE OF CHARLENE BARSHEFSKY  
TO SENATE FINANCE COMMITTEE QUESTIONNAIRE  
ON INFORMATION REQUESTED OF NOMINEES**

**A. BIOGRAPHICAL:**

**1. Name:**

CHARLENE BARSHEFSKY

**2. Address:**

3125 Aberfoyle Place, N.W.  
Washington, D.C. 20015

**3. Date and place of birth:**

August 11, 1950  
Chicago, Illinois

**4. Marital status:**

Married  
Edward B. Cohen

**5. Names and ages of children:**

Marika (Mari) B. Cohen  
Age 9

Devra R. Cohen  
Age 5

**6. Education:**

Catholic University, The Columbus School of Law  
Washington, D.C.  
9/72-5/75, J.D.

University of Wisconsin  
 Madison, Wisconsin  
 9/68-6/72, B.A. (Double major: English and Political  
 Science)

Von Steuben High School  
 Chicago, Illinois  
 9/64-6/68, High School Diploma

7. **Employment Record:**

Attorney-at-Law  
 Associate and Partner  
 Steptoe & Johnson  
 1330 Connecticut Avenue, N.W.  
 Washington, D.C. 20036  
 9/75-4/93

Law Clerk  
 Wald, Harkrader & Ross  
 Washington, D.C.  
 9/74-1/75

Law Clerk  
 Winston & Strawn  
 Chicago, Illinois  
 6/74-8/74

Law Clerk  
 Federal Trade Commission  
 Bureau of Consumer Protection  
 Division of National Advertising  
 Washington, D.C.  
 6/73-6/74

8. **Government Experience:**

Law Clerk  
 Federal Trade Commission  
 Bureau of Consumer Protection  
 Division of National Advertising  
 Washington, D.C.  
 6/73-6/74

9. **Memberships:**

District of Columbia Bar

1989-present: Member, International Law Curriculum  
 Planning Committee for Georgetown University Law Center  
 Continuing Legal Education Program

1983-present: Member, Continuing Legal Education  
 Steering Committee

1980-present: Chair, Annual Two-day International  
 Trade Law Conference sponsored by D.C. Bar and  
 Georgetown University Law Center

1983-1985: Member, Steering Committee, Division 12  
 International Law, D.C. Bar

American Bar Association

1991-1992: Vice Chair, International Law Section,  
Business Division

1990-1992: Co-Chair, Subcommittee on State Aids, EC-  
1992 Task Force

1989-1992: Member of Governing Council, International  
Law Section

1989-1992: Member, Long-Range Planning, International  
Law Section

1989-1991: Chair, Publications, International Law  
Section

1989: Chair, International Law Section, Annual Spring  
Meeting

1988-1990: Co-Chair, International Litigation  
Committee, Litigation Section

1986-1987: Vice Chair, International Litigation  
Committee, Litigation Section

Women's Bar Association

1988-1990: Chair, Committee on Executive Endorsements

1989: Member, Endorsements Policy Committee

U.S. Court of Appeals for the Federal Circuit -  
Admitted to Membership

1989: Speaker, Annual Judicial Conference

1986: Speaker, Annual Judicial Conference

U.S. Court of International Trade - Admitted to  
Membership

1992: Speaker, Eighth Annual Judicial Conference

1989-present: Chair, Rules Advisory Committee  
(appointed by Chief Judge)

1990: Speaker, Sixth Annual Judicial Conference

1989: Chair, Planning Committee, Fifth Annual Judicial  
Conference, and Speaker

1988: Member, Planning Committee, Fourth Annual  
Judicial Conference

1986: Speaker, Second Annual Judicial Conference

Other Court Admissions

U.S. District Court, District of Columbia

U.S. Court of Appeals, D.C. Circuit



Other Memberships

Councillor, The Atlantic Journal

Board Member, International Legal Studies Program, The American University School of Law

Editorial Advisory Board, Business Laws, Inc.,  
International Trade Corporate Counsel Advisor

Editorial Advisory Board, European Business Law Review,  
Graham & Trotman Ltd., U.K.

Member, National Foreign Trade Counsel, Trade &  
Investment Committee; Chair, Uruguay Round Subsidies  
Working Group

Member, Customs and International Trade Bar Ass'n

Member, First Roster of Panelists for Canada/U.S. Free  
Trade Agreement Chapter 19 Dispute Resolution Panels;  
selected January 1989 to serve through March 1991

Miscellaneous

Member, Temple Sinai, a synagogue, located in the  
District of Columbia

Member, Trade Policy Forum, Washington, D.C.

Member, American Civil Liberties Union (ACLU)

Member, the Friends of the National Zoo (FONZ)

Member, the Lafayette Home & School Association (D.C.  
elementary school PTA)

Member, the Watergate Association, Inc. (beach  
community owners Association)

Member, the Smithsonian

Member, ARZA (organization of Reform Jews)

Member, Public Citizen

## 10. Political affiliations and activities:

I am unable to reconstruct the amounts involved in specific political contributions over the last ten years. My husband and I have contributed jointly to the presidential campaigns of Messrs. Clinton, Dukakis and Mondale as well as to selected national and local District of Columbia Democratic candidates. In addition, we have contributed to the Democratic National Committee.

## 11: Honors and awards:

University of Wisconsin: Phi Kappa Phi National Honor Society, Mortar Board National Honor Society, Graduate of Distinction. Catholic University Law School: Scholarship, Associate Editor of Catholic University Law Review, law school class rank of 7th. See also response to question 9, above.

## 12. Published writings:

- C. Barshefsky, P. Lichtenbaum  
Review of Selected 1992 CIT and CAFC Decisions,  
in Annual Spring Meeting of the ABA Section of  
International Law and Practice, (1993)
- C. Barshefsky, M. Abbey  
The Safeguards Provisions of the North American  
Free Trade Agreement, in Business Implications  
and Legal Rules Under NAFTA, American Conference  
Institute (1992)
- C. Barshefsky, P. Lichtenbaum  
Government Procurement and the North American Free  
Trade Agreement, in The NAFTA: Scope and  
Implications (ABA 1992)
- C. Barshefsky  
Rules of the U.S. Court of International Trade,  
Oceana Publications (1992)
- C. Barshefsky  
Public Procurement and 1992, European Economic  
Community Law (1992), reprinted in International  
Trade Corporate Counsel Advisor, Business Laws,  
Inc. (1992)
- C. Barshefsky  
Primer on the U.S. Antidumping and  
Countervailing Duty Laws, in Georgetown  
University Law Center Workshop on Trade (1991)
- C. Barshefsky  
Non-market Economies in Transition and the U.S.  
Antidumping Law: Remarks on the Need for  
Reevaluation, 8 B.U. L. Rev. 373 (1991)
- C. Barshefsky, A. Sutton, J.A. Swindler  
Developments in EC Procurement Under the  
1992 Program, 1990 B.Y.U. L. Rev. 1269 (1990)
- C. Barshefsky  
Articles 1904 and 1907 of the Canada-U.S. Free  
Trade Agreement: Should There Be a Relationship  
Between the Two: (Feb. 10, 1989), in 26 Stan. J.  
Int'l. Law 173 1990
- C. Barshefsky, M. Fishburne  
Principal Decisions of the Court of International  
Trade and the court of Appeals for the Federal  
Circuit, Calendar Year 1989 through March 1990, in  
Annual Spring Meeting, Section of International  
Law & Practice (ABA 1990)
- C. Barshefsky, M. Davis, B. Hillas  
Trade and Investment in the New Europe -- East and  
West, Europa 1992, May 1990
- C. Barshefsky  
Remarks Before the Proceedings of the Seventh  
Annual Judicial Conference of the United States  
Court of International Trade, 137 F.R.D. 509, 517  
(1990)

- C. Barshefsky  
Private Sector Perspective and the International Trade Issues of EC-1992, in 1992: Doing Business With Europe (ABA 1989)
- C. Barshefsky  
Synopsis of Activity in Key Uruguay Round Negotiating Groups, in The New Trade Law Omnibus Trade and Competitiveness Act of 1988 (PLI 1988)
- C. Barshefsky, M. Firth  
International Trade Decisions of the United States Court of Appeals for the Federal Circuit During the Year 1987, 37 Am. U. L. Rev. (Issue 4) (1988)
- C. Barshefsky, N. Zucker  
Amendments to the Antidumping and Countervailing Duty Laws Under the Omnibus Trade and Competitiveness Act of 1988, 13 NCJ Int'l. Law & Comm. Reg. 207 (1988)
- C. Barshefsky  
Remarks Before the Proceedings of the Fifth Annual Judicial Conference of the United States Court of International Trade, 126 F.R.D. 335, 341 (1988)
- C. Barshefsky  
Remarks on Private Remedies Under the Unfair Trade Laws, Before the Fourth Annual Judicial Conference of the United States Court of Appeals for the Federal Circuit, 112 F.R.D. 541 (1987)
- C. Barshefsky, R. Diamond, N. Ellis  
Foreign Government Regulation of Natural Resources: Problems and Remedies Under United States International Trade Laws, 21 Stan. J. Int'l. Law 29 (1985)
- C. Barshefsky  
Remarks on International Trade Strategies, Before the Proceedings of the First Annual Judicial Conference of the United States Court of International Trade, 102 F.R.D. 639, 716 (1984)
- C. Barshefsky, A. Mattice, W. Martin  
Government Equity Participation in State-Owned Enterprises: An Analysis of the Carbon Steel Countervailing Duty Cases, 14 Law & Policy Int'l. Bus. 1101 (1983)
- C. Barshefsky, R. Cunningham  
The Prosecution of Antidumping Actions Under the Trade Agreements Act of 1979, 6 NCJ Int'l. Law & Com. Reg. 307 (1982)
- C. Barshefsky  
The Prosecution of Antidumping and Countervailing Duty Actions Before the Commerce Department, in Techniques of International Trade Litigation (D.C. Bar 1981), reprinted in Annual Trade Seminar Series (1982-1988)
- C. Barshefsky  
Note (Fair Labor Standards Act), 23 Cath. U. L. Rev. 171 (1974)

C. Barshefsky, R. Liebenberg  
 Voluntarily Confined Mental Retardates: The Right  
 to Treatment vs. The Right to Protection From  
 Harm, 23 Cath. U. L. Rev. 787 (1974)

13. Speeches:

District of Columbia Bar  
 Washington, D.C.  
 January 11, 1990

American Bar Association  
 Washington, D.C.  
 January 16, 1990

Georgetown University Law Center  
 The Olin Conference  
 Washington, D.C.  
 March 23, 1990

American Society of International Law  
 Annual Meeting  
 Washington, D.C.  
 March 29, 1990

Women in International Trade  
 Washington, D.C.  
 March 30, 1990

American Bar Association  
 Section of International Law, Annual Meeting  
 Washington, D.C.  
 April 26, 1990

American Bar Association  
 National Institute  
 New York, NY  
 June 8, 1990

Boston University School of Law  
 Boston, Massachusetts  
 September 25, 1990

Europa 1992/Boston University School of Management  
 Tyngsboro, Massachusetts  
 October 26, 1990

Georgetown University Law Center  
 Washington, D.C.  
 October 30, 1990

American Bar Association  
 Intensive GATT Seminar  
 Wye Plantation, Maryland  
 November 16, 1990

Georgetown University Law Center  
 Washington, D.C.  
 April 10, 1990

American Bar Association  
 Section of International Law, Annual Meeting  
 Washington, D.C.  
 April 26, 1991



Georgetown University Law Center  
Washington, D.C.  
June 5, 1991

American Conference Institute  
Washington, D.C.  
December 3, 1992

American Bar Association  
National Institute  
Washington, D.C.  
January 29, 1993

These speeches were delivered from notes. To the extent a speech was delivered in connection with a conference that published materials, the basic thrust of the speech is included as part of the publications listed in response to question 12 above.

#### 14. Qualifications:

Charlene Barshefsky is a partner in the Washington, D.C., law firm of Steptoe & Johnson, where ( until assuming duties at USTR beginning March 23, 1993) she co-chaired the firm's 35-lawyer International Practice Group. Ms. Barshefsky's practice was concentrated in international trade law and policy, with particular emphasis on: (1) the representation of domestic and foreign clients in international trade-related administrative and judicial litigation in the United States and foreign countries (antidumping, countervailing duty, escape clause, section 301, 406, and 337 cases); (2) advice and counseling to clients in connection with U.S. government export and import regulations and the development of global international trade strategies; (3) representation of clients in connection with trade policy and legislative initiatives before Congress and the Executive Branch, including bilateral and multilateral initiatives such as the Canada-U.S. Free Trade Agreement, the North American Free Trade Agreement, EC-1992, GATT negotiations, and Central and Eastern European Initiatives; and (4) representation of clients with respect to market access issues, including U.S. investment abroad, foreign investment in the United States and international public procurement laws and practices. Ms. Barshefsky has practiced in the international field at Steptoe & Johnson for 18 years. Her clients have included a broad array of U.S. and foreign entities.

Ms. Barshefsky has written and lectured extensively on U.S. and foreign trade laws and policies and public procurement regimes, and has testified before Congressional committees. She has been a Vice Chair of the International Law Section of the American Bar Association, as well as a member of its governing Council and Chair of its Publications Committee. She has also Co-Chaired the ABA International Litigation Committee. She is on the Editorial Advisory Boards of the European Business Law Review and the International Trade Corporate Counsel Advisor and serves on the Board of the International Legal Studies Program of the American University School of Law. Ms. Barshefsky Chairs the U.S. Court of International Trade Advisory Committee by appointment of the Chief Judge, and served as an initial roster member of the Chapter 19 Canada-U.S. Dispute Resolution Panels under the Canada-U.S. Free Trade Agreement. She has been a frequent speaker on international trade laws and policy.



United States

**Office of Government Ethics**1201 New York Avenue, NW., Suite 500  
Washington, DC 20005-3917

APR 30 1993

The Honorable Daniel P. Moynihan  
Chairman  
Committee on Finance  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Charlene Barshefsky, who has been nominated by President Clinton for the position of Deputy United States Trade Representative.

We have reviewed the report and have also obtained advice from the Office of the United States Trade Representative concerning any possible conflict in light of its functions and the nominee's proposed duties. A letter attached to the report, dated March 29, 1993, outlines the various recusals, divestitures, and resignations which Ms. Barshefsky has agreed to undertake.

Based on the foregoing, we believe that Ms. Barshefsky will be in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

A handwritten signature in dark ink that reads "Stephen D. Potts". To the right of the signature, the letters "DEC" are handwritten.

Stephen D. Potts  
Director

DEPUTY UNITED STATES TRADE REPRESENTATIVE  
EXECUTIVE OFFICE OF THE PRESIDENT  
WASHINGTON, D.C. 20506

May 19, 1993

The Honorable Daniel Patrick Moynihan  
Chairman  
Committee on Finance  
Washington, D.C. 20510

The Honorable Donald W. Riegle, Jr.  
United States Senate  
Washington, D.C. 20510

Dear Chairman Moynihan and Senator Riegle:

I want to take this opportunity to reiterate that I am committed to the highest standards of ethical conduct for government officials and to expand upon my answer to the question that Senator Riegle posed at this morning's hearing about my activities after leaving government service. As I stated this morning, I intend to abide by the post-government employment rules established by President Clinton.

President Clinton shares your concern with the "revolving door" and the effect it has on public trust in government servants. During his campaign he pledged to close that door. One of his first actions after being sworn in was to issue an executive order, a copy of which is attached, requiring senior government officials and trade negotiators to abide by strict rules on post-government employment.

These rules go well beyond previously existing ethics rules and are designed to signal a clear break with past practice. As Warren Christopher (who was director of the President's transition team and under whose direction the rules were created) stated when he announced the Clinton ethics rules shortly after the President was elected, "[t]hese are the strongest standards any president has asked of his employees." As Secretary Christopher stated, the rules "properly reconcile" the "need for reform with the desire to attract the best people into government."

Let me describe briefly the post-government restrictions with which I will comply so you appreciate the extent to which the rules close the revolving door.

First, at no time after leaving government could I engage in any activity on behalf of a foreign government or foreign

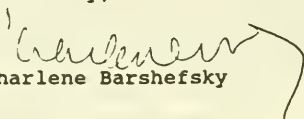
political party that would require me to register under the Foreign Agents Registration Act. This is a life-time ban. It would preclude me, for example, from lobbying Congress or an official in any executive branch agency on behalf of a foreign government.

Second, for five years, I could not represent, aid or advise any foreign government, foreign political party or foreign business entity with the intent to influence an official executive branch action.

Third, I could not lobby any official in my agency on behalf of any client, whether foreign or domestic, for five years after leaving the government.

As I said in my hearing, I am honored to have been nominated for the position of Deputy U.S. Trade Representative and have accepted this nomination because of my desire to serve my country. As you, I believe that public service is a public trust. Moreover, I understand that the post-employment activities of some trade negotiators in the past may have abused that trust. I will not do that. The ethics commitments, which I will undertake if confirmed by signing the pledge set forth in the executive order and to which my testimony this morning referred, ensure that the public trust will be protected.

Sincerely,

  
Charlene Barshefsky

Attachment: E.O. 12834



# Presidential Documents

Title 3—

Executive Order 12834 of January 20, 1993

The President

## Ethics Commitments by Executive Branch Appointees

By the authority vested in me as President of the United States by the Constitution and laws of the United States of America, including section 301 of title 3, United States Code, and sections 3301 and 7301 of title 5, United States Code, it is hereby ordered as follows:

**Section 1. Ethics Pledges.** (a) Every senior appointee in every executive agency appointed on or after January 20, 1993, shall sign, and upon signing shall be contractually committed to, the following pledge ("senior appointee pledge") upon becoming a senior appointee:

"As a condition, and in consideration, of my employment in the United States Government in a senior appointed position invested with the public trust, I commit myself to the following obligations, which I understand are binding on me and are enforceable under law:

"1. I will not, within five years after the termination of my employment as a senior appointee in any executive agency in which I am appointed to serve, lobby any officer or employee of that agency.

"2. In the event that I serve as a senior appointee in the Executive Office of the President ('EOP'), I also will not, within five years after I cease to be a senior appointee in the EOP, lobby any officer or employee of any other executive agency with respect to which I had personal and substantial responsibility as a senior appointee in the EOP.

"3. I will not, at any time after the termination of my employment in the United States Government, engage in any activity on behalf of any foreign government or foreign political party which, if undertaken on January 20, 1993, would require me to register under the Foreign Agents Registration Act of 1938, as amended.

"4. I will not, within five years after termination of my personal and substantial participation in a trade negotiation, represent, aid or advise any foreign government, foreign political party or foreign business entity with the intent to influence a decision of any officer or employee of any executive agency, in carrying out his or her official duties.

"5. I acknowledge that the Executive order entitled 'Ethics Commitments by Executive Branch Appointees,' issued by the President on January 20, 1993, which I have read before signing this document, defines certain of the terms applicable to the foregoing obligations and sets forth the methods for enforcing them. I expressly accept the provisions of that Executive order as a part of this agreement and as binding on me. I understand that the terms of this pledge are in addition to any statutory or other legal restrictions applicable to me by virtue of Federal Government service."

(b) Every trade negotiator who is not a senior appointee and is appointed to a position in an executive agency on or after January 20, 1993, shall (prior to personally and substantially participating in a trade negotiation) sign, and upon signing be contractually committed to, the following pledge ("trade negotiator pledge"):

"As a condition, and in consideration, of my employment in the United States Government as a trade negotiator, which is a position

invested with the public trust, I commit myself to the following obligations, which I understand are binding on me and are enforceable under law:

"1. I will not, within five years after termination of my personal and substantial participation in a trade negotiation, represent, aid or advise any foreign government, foreign political party or foreign business entity with the intent to influence a decision of any officer or employee of any executive agency, in carrying out his or her official duties.

"2. I acknowledge that the Executive order entitled 'Ethics Commitments by Executive Branch Appointees,' issued by the President on January 20, 1993, which I have read before signing this document, defines certain of the terms applicable to the foregoing obligations and sets forth the methods for enforcing them. I expressly accept the provisions of that Executive order as a part of this agreement and as binding on me. I understand that the terms of this pledge are in addition to any statutory or other legal restrictions applicable to me by virtue of Federal Government service."

**Sec. 2. Definitions.** As used herein and in the pledges:

(a) "Senior appointee" means every full-time, non-career Presidential, Vice-presidential or agency head appointee in an executive agency whose rate of basic pay is not less than the rate for level V of the Executive Schedule (5 U.S.C. 5316) but does not include any person appointed as a member of the senior foreign service or solely as a uniformed service commissioned officer.

(b) "Trade negotiator" means a full-time, non-career Presidential, Vice-presidential or agency head appointee (whether or not a senior appointee) who personally and substantially participates in a trade negotiation as an employee of an executive agency.

(c) "Lobby" means to knowingly communicate to or appear before any officer or employee of any executive agency on behalf of another (except the United States) with the intent to influence official action, except that the term "lobby" does not include:

(1) communicating or appearing on behalf of and as an officer or employee of a State or local government or the government of the District of Columbia, a Native American tribe or a United States territory or possession;

(2) communicating or appearing with regard to a judicial proceeding, or a criminal or civil law enforcement inquiry, investigation or proceeding (but not with regard to an administrative proceeding) or with regard to an administrative proceeding to the extent that such communications or appearances are made after the commencement of and in connection with the conduct or disposition of a judicial proceeding;

(3) communicating or appearing with regard to any government grant, contract or similar benefit on behalf of and as an officer or employee of:

(A) an accredited, degree-granting institution of higher education, as defined in section 1201(a) of title 20, United States Code; or

(B) a hospital; a medical, scientific or environmental research institution; or a charitable or educational institution; provided that such entity is a not-for-profit organization exempted from Federal income taxes under sections 501(a) and 501(c)(3) of title 26, United States Code;

(4) communicating or appearing on behalf of an international organization in which the United States participates, if the Secretary of State certifies in advance that such activity is in the interest of the United States;

(5) communicating or appearing solely for the purpose of furnishing scientific or technological information, subject to the procedures and conditions applicable under section 207(j)(5) of title 18, United States Code; or

(6) giving testimony under oath, subject to the conditions applicable under section 207(j)(8) of title 18, United States Code.

(d) "On behalf of another" means on behalf of a person or entity other than the individual signing the pledge or his or her spouse, child or parent.

(e) "Administrative proceeding" means any agency process for rulemaking, adjudication or licensing, as defined in and governed by the Administrative Procedure Act, as amended (5 U.S.C. 551, *et seq.*).

(f) "Executive agency" and "agency" mean "Executive agency" as defined in section 105 of title 5, United States Code, except that the term includes the Executive Office of the President, the United States Postal Service and the Postal Rate Commission and excludes the General Accounting Office. As used in paragraph 1 of the senior appointee pledge, "executive agency" means the entire agency in which the senior appointee is appointed to serve, except that:

(1) with respect to those senior appointees to whom such designations are applicable under section 207(h) of title 18, United States Code, the term means an agency or bureau designated by the Director of the Office of Government Ethics under section 207(h) as a separate department or agency at the time the senior appointee ceased to serve in that department or agency; and

(2) a senior appointee who is detailed from one executive agency to another for more than sixty days in any calendar year shall be deemed to be an officer or employee of both agencies during the period such person is detailed.

(g) "Personal and substantial responsibility" "with respect to" an executive agency, as used in paragraph 2 of the senior appointee pledge, means ongoing oversight of, or significant ongoing decision-making involvement in, the agency's budget, major programs or personnel actions, when acting both "personally" and "substantially" (as those terms are defined for purposes of sections 207(a) and (b) of title 18, United States Code).

(h) "Personal and substantial participation" and "personally and substantially participates" mean acting both "personally" and "substantially" (as those terms are defined for purposes of sections 207(a) and (b) of title 18, United States Code) as an employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or other such action.

(i) "Trade negotiation" means a negotiation that the President determines to undertake to enter into a trade agreement with one or more foreign governments, and does not include any action taken before that determination.

(j) "Foreign Agents Registration Act of 1938, as amended" means sections 611-621 of title 22, United States Code.

(k) "Foreign government" means "the government of a foreign country," as defined in section 1(e) of the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 611(e)).

(l) "Foreign political party" has the same meaning as that term in section 1(f) of the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 611(f)).

(m) "Foreign business entity" means a partnership, association, corporation, organization or other combination of persons organized under the laws of or having its principal place of business in a foreign country.

(n) Terms that are used herein and in the pledges, and also used in section 207 of title 18, United States Code, shall be given the same meaning as they have in section 207 and any implementing regulations issued or to be issued by the Office of Government Ethics, except to the extent those terms are otherwise defined in this order.

**Sec. 3. Waiver.** (a) The President may grant to any person a waiver of any restrictions contained in the pledge signed by such person if, and to the extent that, the President certifies in writing that it is in the public interest to grant the waiver.

- (b) A waiver shall take effect when the certification is signed by the President.
- (c) The waiver certification shall be published in the *Federal Register*, identifying the name and executive agency position of the person covered by the waiver and the reasons for granting it.
- (d) A copy of the waiver certification shall be furnished to the person covered by the waiver and filed with the head of the agency in which that person is or was appointed to serve.

**Sec. 4. Administration.** (a) The head of every executive agency shall establish for that agency such rules or procedures (conforming as nearly as practicable to the agency's general ethics rules and procedures, including those relating to designated agency ethics officers) as are necessary or appropriate:

- (1) to ensure that every senior appointee in the agency signs the senior appointee pledge upon assuming the appointed office or otherwise becoming a senior appointee;
  - (2) to ensure that every trade negotiator in the agency who is not a senior appointee signs the trade negotiator pledge prior to personally and substantially participating in a trade negotiation;
  - (3) to ensure that no senior appointee or trade negotiator in the agency personally and substantially participates in a trade negotiation prior to signing the pledge; and
  - (4) generally to ensure compliance with this order within the agency.
- (b) With respect to the Executive Office of the President, the duties set forth in section 4(a), above, shall be the responsibility of the White House Counsel or such other official or officials to whom the President delegates those duties.
- (c) The Director of the Office of Government Ethics shall:
- (1) subject to the prior approval of the White House Counsel, develop a form of the pledges to be completed by senior appointees and trade negotiators and see that the pledges and a copy of this Executive order are made available for use by agencies in fulfilling their duties under section 4(a) above;
  - (2) in consultation with the Attorney General or White House Counsel, when appropriate, assist designated agency ethics officers in providing advice to current or former senior appointees and trade negotiators regarding the application of the pledges; and
  - (3) subject to the prior approval of the White House Counsel, adopt such rules or procedures (conforming as nearly as practicable to its generally applicable rules and procedures) as are necessary or appropriate to carry out the foregoing responsibilities.
- (d) In order to promote clarity and fairness in the application of paragraph 3 of the senior appointee pledge:
- (1) the Attorney General shall, within six months after the issuance of this order, publish in the *Federal Register* a "Statement of Covered Activities," based on the statute, applicable regulations and published guidelines, and any other material reflecting the Attorney General's current interpretation of the law, describing in sufficient detail to provide adequate guidance the activities on behalf of a foreign government or foreign political party which, if undertaken as of January 20, 1993, would require a person to register as an agent for such foreign government or political party under the Foreign Agents Registration Act of 1938, as amended; and
  - (2) the Attorney General's "Statement of Covered Activities" shall be presumed to be the definitive statement of the activities in which the senior appointee agrees not to engage under paragraph 3 of the pledge.
- (e) A senior appointee who has signed the senior appointee pledge is not required to sign the pledge again upon appointment to a different office except that a person who has ceased to be a senior appointee, due to



termination of employment in the executive branch or otherwise, shall sign the senior appointee pledge prior to thereafter assuming office as a senior appointee.

(f) A trade negotiator who is not also a senior appointee and who has once signed the trade negotiator pledge is not required to sign the pledge again prior to personally and substantially participating in a subsequent trade negotiation, except that a person who has ceased employment in the executive branch shall, after returning to such employment, be obligated to sign a pledge as provided herein notwithstanding the signing of any previous pledge.

(g) All pledges signed by senior appointees and trade negotiators, and all waiver certifications with respect thereto, shall be filed with the head of the appointee's agency for permanent retention in the appointee's official personnel folder or equivalent folder.

**Sec. 5. Enforcement.** (a) The contractual, fiduciary and ethical commitments in the pledges provided for herein are enforceable by any legally available means, including any or all of the following: debarment proceedings within any affected executive agency or judicial civil proceedings for declaratory, injunctive or monetary relief.

(b) Any former senior appointee or trade negotiator who is determined, after notice and hearing, by the duly designated authority within any agency, to have violated his or her pledge not to lobby any officer or employee of that agency, or not to represent, aid or advise a foreign entity specified in the pledge with the intent to influence the official decision of that agency, may be barred from lobbying any officer or employee of that agency for up to five years in addition to the five-year time period covered by the pledge.

(1) The head of every executive agency shall, in consultation with the Director of the Office of Government Ethics, establish procedures to implement the foregoing subsection, which shall conform as nearly as practicable to the procedures for debarment of former employees found to have violated section 207 of title 18, United States Code (1988 ed.), set forth in section 2637.212 of title 5, Code of Federal Regulations (revised as of January 1, 1992).

(2) Any person who is debarred from lobbying following an agency proceeding pursuant to the foregoing subsection may seek judicial review of the administrative determination, which shall be subject to established standards for judicial review of comparable agency actions.

(c) The Attorney General is authorized:

(1) upon receiving information regarding the possible breach of any commitment in a signed pledge, to request any appropriate federal investigatory authority to conduct such investigations as may be appropriate; and

(2) upon determining that there is a reasonable basis to believe that breach of a commitment has occurred or will occur or continue, if not enjoined, to commence a civil action against the former employee in a United States District Court with jurisdiction to consider the matter.

(d) In such civil action, the Attorney General is authorized to request an and all relief authorized by law, including but not limited to:

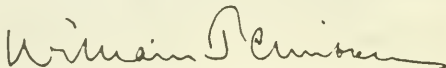
(1) such temporary restraining orders and preliminary and permanent injunctions as may be appropriate to restrain future, recurring or continuing conduct by the former employee in breach of the commitments in the pledge he or she signed; and

(2) establishment of a constructive trust for the benefit of the United States, requiring an accounting and payment to the United States Treasury of all money and other things of value received by, or payable to, the former employee arising out of any breach or attempted breach of the pledge signed by the former employee.

Sec. 6. *General Provisions.* (a) No prior Executive orders are repealed by this order. To the extent that this order is inconsistent with any provision of any prior Executive order, this order shall control.

(b) If any provision of this order or the application of such provision is held to be invalid, the remainder of this order and other dissimilar applications of such provision shall not be affected.

(c) Except as expressly provided in section 5(b)(2) of this order, nothing in the pledges or in this order is intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.



THE WHITE HOUSE.

January 20, 1993.

[FR Doc. 93-1871

Filed 1-21-93; 12:29 pm]

Billing code 3195-01-M

# RESPONSES OF MS. BARSHEFSKY TO QUESTIONS SUBMITTED BY SENATOR PACKWOOD

1. You have represented Canadian interests in the softwood lumber case. What will be your recusal policy relating to:
  - a. The softwood lumber dispute with Canada;
  - b. Other trade disputes between the United States and Canada; and
  - c. Any and all issues impacting the U.S. timber industry?

As I stated in my recusal letter, a copy of which was introduced into the record of my confirmation hearing, I will recuse myself from particular matters involving the Government of Canada and the Canadian softwood lumber industry. This means that I will not participate in any discussions of or decisions about the softwood lumber dispute with Canada or issues arising from or relating to that dispute, or other trade disputes between the United States and Canada. I will not recuse myself, however, from participating in other matters affecting that industry in the areas of my responsibility, that is, Japan, China, and the remaining countries of the Pacific and Latin America.

2. USTR will meet in June to discuss the problem of apple exports to Japan. What options are available if these technical negotiations are unsuccessful?

The United States and Japan have been discussing this issue for over a decade, and we believe we have addressed all of Japan's concerns. USTR hopes that our upcoming talks will resolve all remaining differences. If they do not, then we will seek to find the appropriate method to resolve this issue, including the possible use of GATT dispute settlement mechanisms or of remedies under U.S. trade laws such as section 301.

3. In regard to the tariff reclassification of sport utility vehicles and mini-vans:
  - a. What are the GATT implications of reclassifying sport utility vehicles and mini-vans as trucks instead of autos for import purposes?

The United States currently classifies certain sport utility vehicles as trucks for tariff purposes. If the United States reclassifies other sport utility vehicles and mini-vans as trucks instead of autos for tariff purposes, our trading partners may seek to challenge the action under the General Agreement on Tariffs and Trade (GATT).

- b. Has the office of USTR ever written an opinion or memo on the GATT legality of the reclassification issue?

Legal counsel in the Office of the United States Trade Representative prepared a confidential memorandum for the USTR in February 1992 that, among other things, discussed the legal implications under U.S. GATT obligations of reclassification.

- c. What impact will the May 14, 1993 U.S. Court of International Trade (CIT) decision on two-door sport utility vehicles have on the Administration's interagency review on the reclassification issue?

The Court limited its decision to the goods subject to review -- model year 1989 and 1990 two-wheel- and four-wheel-drive Nissan Pathfinders. The decision, which was issued just last week, is currently being studied. It is not yet clear what, if any, impact the decision will have on the outcome of the review of the reclassification issue.

4. President Menem of Argentina is scheduled to visit President Clinton in June. I understand that for four years, Argentina has promised to enact a law for providing adequate patent protection for chemical and pharmaceutical products. In view of the four-year history of the Argentines not complying with their promises, what action should the U.S. take before and during President Menem's visit to ensure that, finally, the Argentines live up to their promises?

The Argentine Government needs to move promptly to enact pending legislation that would significantly improve patent protection in that country. Although the Argentine Government submitted comprehensive patent law amendments to its legislature in October 1991 that would bring their law up to world-class standards and provide pipeline protection for pharmaceuticals and agricultural chemicals, that legislation has languished.

This Administration has already taken steps to address this problem. At the end of April, Ambassador Kantor placed Argentina on the "special 301" priority watch list and announced his intention to subject Argentina to an out-of-cycle review. The Administration is not willing to wait another year for the Argentine legislature to pass the new industrial property law. As intellectual property protection is the top priority on our bilateral agenda, the issue will be raised with President Menem during his visit and we will seek his active support for legislative changes.

5. The Uruguay Round Draft Final Act provides a discriminatory ten-year transition period in the Trade Related Intellectual Property (TRIPS) text, permitting developing countries to continue to pirate certain patented goods. If the U.S. accepts that unreasonable delay, how can the U.S. hope to succeed in bilateral negotiations on intellectual property with, for example, Brazil, Turkey, Argentina, Hungary and India?

The draft TRIPS text permits developing countries to take up to ten years to provide product patent protection for pharmaceuticals; it is not, however, a license to pirate. Although the draft text includes provisions that would provide protection for pharmaceuticals for which patent applications are filed within a year before the agreement becomes effective, it does not require countries to protect pharmaceuticals that are already patented in the United States. Thus, we have two issues: (1) the delay in implementing this requirement, and (2) the lack of so-called pipeline protection. Both of these issues come up in the bilateral negotiations you mentioned.

In most cases, these aspects of the draft TRIPS agreement have not adversely affected our ability to persuade our trading partners to implement protection much sooner than required under the draft. Governments have also been willing to negotiate pipeline protection for pharmaceuticals. As explained in greater detail below, many developing countries recognize that improved patent and other intellectual property laws are in their overall domestic economic interest. While special interest groups (pirates) may delay action for a time, the example of countries such as Mexico demonstrates that improving patent protection encourages investment and domestic research and development efforts.

With respect to Argentina, the draft patent law includes pipeline protection and product patent protection for pharmaceuticals. We are pressing the Argentine Government for prompt action on the legislation.

For Hungary, we have reached agreement to conclude ongoing negotiations by July 31, 1993. The Hungarian Government has agreed to provide product patent protection for pharmaceuticals by 1995. The key points remaining to be resolved are the terms of pipeline protection.

The situation in Brazil is that a less than satisfactory draft industrial property law is pending before the Congress. While it would provide for product patent protection for pharmaceuticals much sooner than the 10 year transition period permitted under the draft TRIPS text, other provisions in the law regarding, for example, compulsory licensing, and permitting parallel importation of patented products, significantly weaken protection. Pipeline protection is also inadequate.

For Turkey, we are at an earlier stage in the legislative process. U.S. government experts have been consulting with Turkish authorities on proposed patent law revisions. Current draft legislation does not meet our needs. We anticipate, however, that improved patent protection will be in place well before the transition period in the draft TRIPS text.

India presents a particular problem when it comes to patent protection. We have identified India as a priority foreign country under "special 301," and removed benefits under the Generalized System of Preferences, and still see little positive movement on pharmaceutical patent issues. The U.S. is considering what further action to take.



## RESPONSES OF MS. BARSHEFSKY TO QUESTIONS SUBMITTED BY SENATOR DANFORTH

1. In a 1983 article entitled Government Equity Participation in State-Owned Enterprises: An Analysis of the Carbon Steel Countervailing Duty Cases, you argued that government subsidies for the purpose of restructuring industries "should not be held countervailable." Do you continue to hold this view? If so, what is the policy rationale underlying your position?

The specific article to which you refer was published in 1983 and reflected the arguments made by European steel producers that restructuring funds should not be held countervailable. The specific question raised by the article was "how to protect U.S. industry against unfair subsidization, yet encourage foreign corporations to restructure...." (p. 1134) The article was written at a time when there was little experience with U.S. countervailing duty law in this area. Subsequent experience indicates that to allow subsidies for restructuring could provide an unacceptable loophole in the law, subjecting U.S. firms to continued unfair foreign competition. U.S. law is clear--subsidies for the purpose of restructuring industries are countervailable.

2. More generally, your arguments in the above-referenced article suggest that you may at one time have taken the view that certain subsidies are by definition not trade-distorting and therefore should be non-actionable under the countervailing duty law. What is your view today concerning the creation of categories of non-actionable subsidies? Do you believe that the U.S. should seek changes to the provisions in the so-called Dunkel draft providing for such categories of non-actionable subsidies?

When the EC and others opened debate on the Dunkel draft subsidies text last December, the United States took the opportunity to make it clear that we too have serious problems with the Dunkel draft text as it is currently drafted. The nonactionable categories of subsidies remain the focal point of our concern. In that regard, we recognize that there are many in Congress and industry who share our concerns and we are committed to working to improve the text. It is this Administration's position that U.S. unfair trade laws must remain strong and effective.

## RESPONSES OF MS. BARSHEFSKY TO QUESTIONS SUBMITTED BY SENATOR RIEGLE

## Japan Trade Surplus

In your opinion, what are the causes of the trade deficit with Japan?

The trade deficit with Japan is in no small measure the result of macroeconomic factors. However, economic history has shown that the bilateral deficit with Japan has remained unacceptably high, under almost any macro-economic conditions. After years of study, we should have no illusions about the nature of the Japanese economy or the Japanese market. Japan remains an outlier, on the low side, in terms of its imports of manufactured goods, when compared to the other G-7 partners. In sector after sector, e.g., autos, auto parts, computers, supercomputers and telecommunications, competitive U.S. manufacturers have found it almost impossible to penetrate Japanese public and/or private markets. Decisions in Japan are still not made on the basis of price, performance, and service.

Japan remains equally inhospitable to foreign investment. Several recent studies clearly indicate that trade follows investment. Japan also discourages foreign participation in its economy through a variety of structural barriers, such as keiretsu, the distribution system, and lack of enforcement of antimonopoly laws.

This suggests that it is essential that we seek to obtain specific commitments from the GOJ to address the problem areas that we identify.

**What is the effect on the U.S. of the U.S. trade deficit with Japan?**

The bilateral trade deficit with Japan has cost the U.S. significant jobs in key sectors of our economy. The denial of export opportunities to Japan has prejudiced leading U.S. industries and their workers. Japanese trade policies have also altered the composition of our bilateral trade in a fashion less favorable to the United States than it would have been with freer markets. We would have borne that cost, however, whether our trade were in deficit, balance or surplus with Japan.

The consequences of allowing Japan's key sectors to operate in a closed and protected environment has competitively disadvantaged U.S. companies and workers in our home market, as well as in Japan. Many of our industries are world class competitors in every market but Japan. This is unacceptable.

**What steps should the U.S. take to lower the deficit?**

President Clinton has already demonstrated that the United States is committed to fundamental efforts to put our own economic house in order, through reining in the federal budget deficit and encouraging investment in America. This is a necessary but not sufficient step to improving our trade situation with Japan. To have a meaningful effect on our trade situation with Japan, we must also bring fundamental change to our relationship with Japan. This will be accomplished in three major ways. First, the Administration will bring a new emphasis to the economic side of our relationship--economic issues will no longer be subordinated to broader foreign policy concerns. Second, the Administration will forge a framework with Japan for dealing with our bilateral economic problems, both sectoral and structural. President Clinton and Prime Minister Miyazawa have already agreed on the necessity for this framework, the announcement of which is scheduled for the G-7 summit in July.

Third, the Administration will insist that Japan adhere strictly to bilateral trade agreements already negotiated, and we will be prepared to utilize U.S. trade laws in this endeavor. On April 30, for example, USTR identified Japan under Title VII for discrimination against foreign firms in government public works contracts. The U.S. Government also initiated a Section 306 Review of Japan's compliance with the 1990 U.S.-Japan Supercomputer Agreement.

**Would you support legislation that would eliminate the U.S. trade deficit with Japan in five years by cutting it 20 percent a year?**

If confirmed, my job will be to help define a new economic relationship with Japan based on access to the Japanese market more reciprocally equivalent to that enjoyed by Japanese producers in the United States. Real, measurable progress in this regard should tangibly benefit U.S. exports, U.S. industry, and U.S. workers. Our trade policy vis-a-vis Japan could be fully successful, our economy and workers could prosper on expanding exports to Japan and elsewhere and yet US trade deficits could persist. Moreover the perceived need for legislation will be reduced as the Administration pursues a concerted policy to open the Japanese market and attack the bilateral deficit.

The Administration is currently considering how to assess duties on multi-purpose vehicles. Do you believe Japanese MPVs should be considered cars and charged a 2.5 percent tariff, or trucks, and be charged a 25 percent tariff?

The MPV issue is currently under review by the Clinton Administration. No decision has yet been made.

To cut the deficit, do you favor only pressuring Japan to open its market or do you favor limiting access to the U.S. market if Japan does not comply?

My primary responsibility will be to negotiate agreements that expand market access for U.S. products, services, and suppliers. As a rule, I support expanding trade opportunities for U.S. firms, not closing our markets. However, this Administration will insist that Japan and our trading partners adhere strictly to trade agreements already in place, as well as take affirmative and constructive steps to open further their markets. The Administration has already demonstrated through its actions against Japan in the construction and supercomputer areas that it will not hesitate to utilize U.S. trade laws to achieve these goals.

If Japanese imports from third countries in Southeast Asia to the U.S. are added into the bilateral trade figures, Japan would have an even greater trade surplus with the U.S. Will you calculate those imports into your negotiating strategy with Japan?

Unfortunately, there is no comprehensive international trade data which indicate the value added in final traded goods by individual countries in each step of the production process. I do not doubt that there are in this sense indirect Japanese exports to the United States, through Japanese inputs into Southeast Asian export production. However, there are also indirect U.S. exports to Japan in the form of U.S. components and other inputs which are assembled or further transformed in other countries before shipment to Japan. Our data allow us to measure neither such U.S. indirect exports to Japan nor indirect Japanese exports to the U.S. I do not know specifically what the impact of such indirect trade would be on the bilateral trade imbalance if included along direct trade with Japan.

It is important to note that the Southeast Asian nations generally run trade deficits with Japan, just as we do. The U.S. and Southeast Asian nations have a mutual interest in persuading the Japanese to eliminate barriers to imports.

I would also add that we will, of course, vigorously pursue any attempts by the Japanese to use offshore production platforms to circumvent bilateral trade agreements or to divert trade flows to get around quotas, VERs or other commitments by the Japanese to limit exports to the U.S.

I am concerned that NAFTA will allow Japan to use Mexico as an export platform to the U.S., bolstering its surplus even more. What steps should the U.S. take to prevent this from occurring?

As my refusal letter makes clear (a copy of which was introduced in the record of my confirmation hearing), I am refused from NAFTA and therefore cannot respond to this question.

How do you plan to attack non-tariff barriers in Japan?

USTR intends to pursue aggressively the removal of non-tariff barriers in Japan, whether they are sectoral or structural in nature. The overall approach to this issue will be outlined in a framework policy, which is being developed at senior levels within the Administration.

In addition, as Ambassador Kantor has made plain, full implementation of existing trade agreements or understandings is a priority for the Clinton Administration. Past commitments made by the Government of Japan will not be allowed to languish.

How successful was the previous Administration in addressing the deficit in Japan? Why did they fail and how will your approach be different?

The Bush Administration, through the Structural Impediments Initiative (SII) and other means, sought to encourage the GOJ to stimulate its own economy and thereby draw in imports. This was only moderately successful.

Of course, the deficit is in no small measure the result of macroeconomic factors. However, economic history has shown that the bilateral deficit with Japan has remained stubbornly high, under almost any macro-economic conditions. This suggests that it is essential that we seek to obtain specific commitments from the GOJ to address the specific problem areas that we identify.

The specifics of the Clinton Administration's trade policy agenda with Japan are now under intensive internal discussion. However, as Ambassador Kantor and other senior Administration officials have made plain, we intend to be more focused in our efforts than the past Administration. Further, we will seek concrete and measurable improvements in sectoral and structural areas of significance to the United States.

Much has been said of "managed trade". What does it mean to you and how will you incorporate it into your approach?

Managed trade tends to mean very different things to different people. The most overt form of "managed trade" is to seek specific and rigid shares of a given market by agreement. In this sense, managed trade is and must be distinguished from the establishment of quantitative and qualitative benchmarks through which progress in sectoral bilateral trade relations can be measured. The existence of benchmark measures of many types (which may include market share as one of a number of indicators) will be an important component of Administration trade policy.



How does the relatively weak Japanese economy and political turmoil in Japan affect our ability to access their market and get them to agree to real market-opening measures?

Domestic economic and political conditions in Japan may impose certain constraints on Japanese policy makers. In the face of this, the U.S. must simply be more resolute in efforts to obtain real access to the Japanese market for competitive U.S. goods and services, simply because, e.g., economic growth in Japan is not as robust currently as it has been in certain periods in the past. Slower growth in Japan cannot be an excuse for exclusionary practices by the public or private sector markets that thwart opportunities for competitive U.S. firms. Access to the Japanese market should be achievable under a variety of market conditions.

#### MFN for China

1. News articles report that the Clinton Administration will likely renew MFN for China but attach conditions. What conditions do you believe should be attached to MFN status for China?

The President has not yet made his decision as to whether or under what conditions, if any, to renew MFN trade status for China. Factors that the Administration will consider will include China's record on human rights and non-proliferation, its compliance with trade agreements, and commercial considerations.

2. China is running a large trade surplus with the U.S. What steps should the U.S. take to lower this deficit?

As you know, from a domestic perspective, the Administration is working hard to lower the Federal budget deficit, to improve the competitiveness of U.S. industries, and to expand our trade globally. These are essential steps toward lowering our overall trade deficit.

China's large and growing trade deficit with the United States, which in 1992 was \$18.2 billion, is unacceptable. Multiple, overlapping barriers to U.S. imports exist, as do high tariffs that make it very difficult for highly competitive U.S. industries to penetrate China's markets.

To address this problem, the Administration is vigorously pursuing access through the October 1992 market access agreement, which will sharply reduce or eliminate principal obstacles to U.S. trade. USTR is also conducting discussions in specific sectors, such as computers, medical equipment, heavy machinery, and autos with respect to further access. Finally, USTR has just proposed to the Chinese that we hold discussions on opening China's market for services to U.S. companies.

3. During his campaign, President Clinton criticized the Chinese for human rights violations. How does continuing MFN square with this?

The President has not yet made a decision on renewal of MFN trade status for China. The Administration intends, however, to address concerns pertaining to human rights abuses in China.

## GATT

1. How are the GATT negotiations proceeding and what clauses are you pushing to make sure American workers aren't injured?

The Dunkel draft text on safeguards would enhance the ability of U.S. workers and firms to gain temporary import relief if they are seriously injured or threatened with serious injury by imports. This agreement would clarify and improve existing GATT safeguards rules. The draft safeguards agreement improves the likelihood that domestic industry and workers will receive import relief if confronted with an increase in imports; the agreement prohibits any retaliation by affected exporting countries for the first three years that a safeguard agreement is in effect. (Under current rules, other countries can retaliate immediately). The draft agreement incorporates into the GATT other concepts long included in U.S. safeguards law (Section 201), ensuring that all countries are using comparable rules and procedures when taking safeguard actions.

2. How hard are the Japanese trying to resolve the Uruguay Round? What parts of the agreement do they oppose or want to see changed?

The Government of Japan states that it is committed to the successful conclusion of the Uruguay Round. Japan is a prime beneficiary of the open world trading system. It is therefore our expectation that the Government of Japan will be prepared to take additional specific actions to help bring the Uruguay Round to a successful conclusion.

For example, in market access, the Administration is seeking meaningful liberalization of Japanese tariff and non-tariff barriers to ensure commercially significant new opportunities for our exporters in industrial goods. In particular, the Administration is continuing to press Japan to accept the chemicals harmonization initiative without exclusions for agricultural chemicals and to accept the remaining zero-for-zero initiatives in natural resources--wood, paper and non-ferrous metals--and distilled spirits. In services, the Administration is seeking improved offers in a number of areas including financial services (securities, banking and insurance). In agriculture, Japan is expected to adhere fully to the requirements of the Dunkel text and to open its market for all agricultural products--processed and bulk--without undermining this liberalization through maintenance of the trade-restricting practices of its food importing agencies.

## OTHER ASIA

1. Do you see Southeast Asia and Japan forming a regional trading block and, if so, what are the implications for U.S. exports to the region?

Malaysia's Prime Minister Mahathir proposed the formation of an East Asia Economic Caucus (EAEC), a regional trading group, potentially a trade block, to counter the integration of the EC market and the formation of the North American free trade market. Thus far, Japan has not expressed interest in establishing or joining such an organization. Some countries within the Association of South East Asian Nations (ASEAN) also have opposed such a grouping, preferring instead the ASEAN Free Trade Agreement and a broader regional grouping such as the Asia Pacific Economic Cooperation forum (APEC).

For the United States, Japan, and others in the region, APEC is the preferred institution for pursuing regional trade expansion. It encompasses the fifteen major Pacific Rim markets -- the fastest growing markets in the world. The Asian markets and our relationships with the Asia/Pacific area therefore are critical to our economic future.

APEC serves as the only institution involving all the critical economies in one organization focused on economic activity. It is a relatively new organization but its agenda encompasses economic cooperation and facilitation of trade and investment.

This year, the United States is chairing the APEC process and hosting the APEC Ministerial in November. Our chairmanship provides a unique opportunity to work with others to expand economic relations in the region.

2. What do you intend to do about mass pirating of software and entertainment in Thailand?

On April 30, 1993, Ambassador Kantor identified Thailand as a priority foreign country under the Special 301 provision of the Omnibus Trade and Competitiveness Act of 1988. Following that designation, bilateral talks on intellectual property rights with the Royal Thai Government were held. They concluded with an understanding on the steps that Thailand must take in order to avoid trade action. This understanding covers the enforcement measures and legislative initiatives that would be required to protect copyrights, trademarks, and patents in Thailand and on the need to impose administrative measures to ensure equivalent protection until legislation is formally enacted.

On or before July 31, 1993, USTR will review the results to date and, on that basis, will consider whether adequate and effective protection and enforcement of intellectual property rights has been achieved. If not, USTR will consider what appropriate action should be taken.

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## RESPONSE OF MS. BARSHEFSKY TO A QUESTION SUBMITTED BY SENATOR WALLOP

QUESTION: Since your portfolio will primarily deal with Asia, can you tell me what the Administration's Asia policy will be? I don't mean whether MFN will be extended to China with or without conditions, or whether a particular country will be a target of 301 proceedings, but rather what is America's overarching interest in Asia? Do we have a compelling security and economic interest in the region? And what do you think the relationship is, if any, between our military and trade policy in the region?

ANSWER: The United States' policy toward trade with Asia is an integral part of the President's domestic economic program. U.S. domestic growth depends importantly on growth in U.S. exports. During 1985-91, exports accounted for 42.5 percent of the growth in gross domestic production, in constant dollars. A leading source of export earnings has been the Asia region. U.S. exports to the countries of East Asia and the Pacific have risen by 121 percent since 1985, accounting for a third of the increase in total U.S. exports during that period.

East Asia and the Pacific will record even higher growth rates over the next decade. The Asia region is expected to double its aggregate gross domestic product by the year 2002 to over \$12 trillion dollars. By contrast, Western Europe is expected to grow at about a 2 percent rate reaching a GDP of about 8 trillion by 2002; Latin America is expected to grow to a modest -- in comparison with East Asia and Pacific -- \$2.5 trillion GDP. Even North America's GDP is expected to reach only about \$10 trillion by 2002.

An important, although not the sole, factor in enhancing and maintaining strong security and economic interests is improving access for U.S. exports to the dynamic Asia and Pacific markets. In this regard, the Clinton Administration has taken a leadership role in the development of the organization of Asia Pacific Economic Cooperation (APEC), the regional forum of 15 Asia and Pacific economies on both sides of the Pacific. This year, the United States hosts the fifth APEC Ministerial. In this capacity, the United States is working to develop a trade and investment framework with other countries in order to raise the importance of trade within the organization and the importance of trade liberalization to economies of the Asia and Pacific region.

With respect to the relationship, if any, between our military and trade policy in the region, the Administration's trade policy aims at encouraging economic growth in the region by opening markets and increasing competition. Stronger economic growth throughout the region creates greater political stability thus reinforcing our strategic and military policy of diminishing the threat of military conflict and fostering peace in the Asia/Pacific region.

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## PREPARED STATEMENT OF WALTER D. BROADNAX

Mr. Chairman and Members of the Committee, my name is Walter Broadnax and I am honored to be here today as President Clinton's nominee for the position of Deputy Secretary in the U.S. Department of Health and Human Services. As a person who has spent most of his professional life either teaching public management and public policy or actively engaged in the practice of public management, this most recent opportunity represents a high point in my 25 years of professional life.

As you may know, I spent more than six years as a faculty member at the John F. Kennedy School of Government at Harvard University where I was engaged in the training of young people to become professional public managers and public policy analysts. During my term at the Kennedy School, I was also fortunate to have been able to spend a substantial portion of my time educating senior executives from the Federal Government as well as State and local governments. Prior to this, I spent three years at the Federal Executive Institute where my primary responsibilities were those of a professor of public administration. In this role, I was exposed in the classroom to hundreds of Federal executives from across the American governmental scene.

Turning to my background as a practicing public executive, I spent three years as the President and Commissioner of the New York State Civil Service Commission. In this role I was responsible for civil service policy, programs, and practice as related to a 200,000 person work force of the New York State Government. Prior to this experience, I served as Principal Deputy Assistant Secretary for Planning and Evaluation at the U.S. Department of Health, Education and Welfare during the Carter administration and as Director of Children, Youth and Adult Services for the State of Kansas.

Mr. Chairman, Secretary Shalala has asked me, if I am confirmed by the Senate, to concentrate my energies as Deputy Secretary on management issues broadly defined; to focus on the day-to-day management of this large and complex Department. She recognizes that strong management is an essential ingredient to achieving the several objectives that have already been outlined by this Administration in areas like health care reform, welfare reform, and reducing the SSA disability backlog. The Secretary has also asked me to lead the reinventing government initiative for our Department. Secretary Shalala believes that she has put together a very strong team of individuals who will bring certain strengths, particularly in the policy and analytical domains. But, she also recognizes the challenges we must face in the coordination and implementation of the Administration's goals and objectives, once we have passed through the legislative phase of the process.

Mr. Chairman, if confirmed, I intend to work with the Secretary, the President, and the Congress—particularly you and the members of this Committee—to insure that HHS is managed excellently over the next several years.

## NOMINATION REFERENCE AND REPORT

AS IN EXECUTIVE SESSION,  
SENATE OF THE UNITED STATES,  
April 27, 1993.

Ordered, that the following nomination be referred to the Committee on Finance:

Walter D. Broadnax, of New York, to be Deputy Secretary of Health and Human Services, vice Kevin E. Moley, resigned.

, 1993.

Reported by Mr.

with the

recommendation that the nomination be confirmed.

## OUTLINE OF INFORMATION REQUESTED OF NOMINEES

## A. BIOGRAPHICAL:

1. Walter Doyce Broadnax

2. Address:

256 Council Rock Avenue, Rochester, NY 14610

3. Date and Place of Birth:

10/21/44 Starcity, Arkansas

4. Marital Status:

Married, Angel Laverne Wheelock

5. Names and Ages of Children:

Andrea Alyce Broadnax

6. Education:

Southwestern College	1962-63
Washburn University	1963-67, B.A. 1967
Kansas University	1967-69, M.P.A. 1969
Syracuse University	1972-75, Ph.D. 1975

7. Employment Record:

President, Center for Governmental Research Inc., Rochester, NY, 1990-Present.

Adjunct Professor, Public Policy Program, Department of Political Science, University of Rochester, Rochester, NY, 1990-Present.

President, New York State Civil Service Commission and Commissioner, New York State Department of Civil Service, State of New York, Albany, NY, 1987-90.

Lecturer in Public Management and Public Policy, John F. Kennedy School of Government, Harvard University, Cambridge, MA, 1981-87; Chairman, Massachusetts Executive Development Program, 1985-87 and Director, Innovations in State and Local Government Program, 1985-87.

Expert Consultant, U.S. General Accounting Office, Boston Regional Office, Boston, MA, 1984-86.

Senior Staff Member, The Advanced Study Program, The Bookings Institution, Washington, DC, 1981 (Jan.-Sept.).

Principal Deputy Assistant Secretary, Office of Planning and Education, U.S. Department of Health, Education and Welfare/Health and Human Services, Washington, DC, 1980-81.

Director, Services to Children, Youth and Adults, State of Kansas, Topeka, KS, 1979-80.

Professor, Public Administration, The Federal Executive Institute, U.S. Office of Personnel Management, Charlottesville, VA, 1976-79; Managing Editor, *The Bureaucrat*, 1977-78, and Visiting Professor, University of Southern California - Washington Public Affairs Center, Washington, DC, 1977-79; Visiting Lecturer, Department of Political Science, University of Virginia, Charlottesville, VA, 1977.

Co-Director, Joint International City Management Association/National Association of Schools of Public Affairs and Administration Urban Management Education Program, National Association of Schools of Public Affairs and Administration, Washington, DC, 1975-76.

Staff Consultant, New York State Department of Correctional Services, State of New York, Albany, NY, 1974-75.

Commissioner, Urban Renewal Commission, City of Topeka, Kansas, Topeka, KS, 1971-72.

Staff Consultant, U.S. Congressman William R. Roy, Second District, Kansas, U.S. House of Representatives, Topeka, KS, 1971-72.

Director, Upward Bound, Washburn University of Topeka, Topeka, KS, 1970-72.

Budget Analyst, State Budget Division, State of Kansas, Topeka, KS, 1968-70.

Graduate Assistant, Kansas University, Lawrence, KS, 1967-68.

Program Development Specialist, State Office of Economic Opportunity, Office of the Governor, State of Kansas, Topeka, KS, 1967-68.

#### 8. Government Experience:

Member, New York State Commission on Cost Control

Member, CASE Commission, Monroe County, New York

President-Elect Bill Clinton Transition Team

President, New York State Civil Service Commission

Chair, New York State Federated Appeal

Member, Board of Directors and Executive Committee, Center for Women in Government, New York State

Member, New York State Controller's Advisory Council

Member, New York State Health Insurance Council

Chair, Governor's Committee on Affirmative Action, New York State

Expert Consultant, U.S. General Accounting Office, Boston, MA, Massachusetts State Salary Commission

Principal Deputy Assistant Secretary, U.S. Department of Health and Human Services

Director, Services to Children, Youth, and Adults, State of Kansas

Secretary, Kansas Advisory Committee on Services to Children and Youth

Member, Governor's Committee on Criminal Justice  
Administration  
Member, Governor's Juvenile Justice and Delinquency Board  
Chairman, Social Services Subcommittee of the Human Resources  
Committee, National Governors' Association  
Professor, The Federal Executive Institute, U.S. Office of  
Personnel Management  
Staff Consultant, New York State Department of Correctional  
Services  
Commissioner, Topeka Urban Renewal Commission  
Staff Consultant, Congressman William R. Roy  
Budget Analyst, State of Kansas  
Program Development Specialist, State of Kansas

Consultant:

State of Florida  
New York City  
New York State  
City of Gary, Indiana, Public Schools  
District of Columbia  
U.S. Office of Education  
National Science Foundation  
New York State Department of Correctional Services  
U.S. Department of Housing and Urban Development

National Advisory Committee on Federal Workforce Quality  
Assessment  
President, Eastern Region, National Association of Civil  
Service Commissioners  
Member, Board of Directors, Empire State Day Care Services,  
Inc.  
Executive Committee, National Association of State Personnel  
Executives  
Member, National Committee, Ford Foundation and Harvard  
University Innovations In State and Local Government Program

9. Memberships:

President-Elect and Member, Executive Committee, National  
Association of State Personnel Executives  
Member, American Society for Public Administration  
Chair, Civil Service Reform Task Force, American Society for  
Public Administration  
Member, American Political Science Association  
American Public Welfare Association  
International Personnel Management Association  
  
Pi Sigma Alpha  
Sigma Pi Phi  
Philosophers' Club

10. Political Affiliations and Activities:

Contributor to political candidates at both State, Local, and  
National level. Team Leader, Clinton-Gore Transition for  
Office of Personnel Management.

11. Honors and Awards:

Fellow, National Academy of Public Administration  
Trustee, Board of Directors, National Academy of Public  
Administration  
Who's Who Among Black Americans  
Who's Who in the Midwest  
Pi Sigma Alpha (Honorary Political Science)  
Whiting Scholar



American Men and Women of Social and Behavioral Sciences  
 John E. Burton Award and Rockefeller Medallion  
 Ford Foundation Fellow, Costa Rica  
 Ford Foundation Fellow, Syracuse University  
 Certificate of Appreciation, Outstanding Public Service, State  
 of Kansas  
 Eminent Public Administrator, Cleveland State University

## 12. Published Writings:

### Books, Monographs, and Reports

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Co-author and Walter D. Broadnax, "Introduction," The Bureaucrat (April, 1975).

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#### CASE STUDIES: PREPARATIONS SUPERVISED

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"Maxine Savitz and the Department of Energy," John F. Kennedy School of Government, Harvard University, Copyright 1983 by the President and Fellows of Harvard College.

#### 13. Speeches:

No formal speeches written for my delivery in the past three years.

#### 14. Qualifications:

I believe that I have demonstrated a sustained commitment to public service and that I have performed with honor and dedication in each role. Moreover, I have spent the last 25 years either teaching, conducting research and writing about public service, or playing the role of professional public servant. Furthermore, I care deeply about the mission of the Department of Health and Human Services.



United States  
**Office of Government Ethics**  
1201 New York Avenue, NW., Suite 500  
Washington, DC 20005-3917

MAY 5 1993

The Honorable Daniel P. Moynihan  
Chairman  
Committee on Finance  
United States Senate  
Washington, DC 20510-6200

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Walter D. Broadnax, who has been nominated by President Clinton for the position of Deputy Secretary of the Department of Health and Human Services.

We have reviewed the report and have also obtained advice from the Department of Health and Human Services concerning any possible conflict in light of its functions and the nominee's proposed duties. A summary of the agreements reached by Mr. Broadnax and the Department is outlined in the enclosed letter dated April 28, 1993, from the Department's Designated Agency Ethics Official.

Based thereon, we believe that Mr. Broadnax is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

A handwritten signature in dark ink, appearing to read "Stephen D. Potts".

Stephen D. Potts  
Director



## RESPONSES OF MR. BROADNAX TO QUESTIONS SUBMITTED BY SENATOR HATCH

### QUESTION 1

Mr. Broadnax, I have reviewed your credentials and they are very impressive. I hope that we have the opportunity to meet in the near future.

I think that HHS is one of the most important agencies in the cabinet, if not THE most important. Managing an agency with such a large budget, so much of which is entitlements, with so many employees, is a herculean task. It has been made only more difficult by budgetary pressures extending to salaries and expenses in virtually every office of the agency.

--Could you briefly outline for me what you believe your role will be in the Department, and, in particular, in management?

--Are you planning any reorganizations or other changes to respond to budgetary constraints?

--Have you found it difficult to either recruit or retain a motivated workforce in light of the hiring freeze and other results of funding constraints?

### ANSWER

- ▶ My role at the Department of Health and Human Services will be focused on the day-to-day management of the department, as well as heading up the Reinventing Government initiative at HHS.
- ▶ With regard to any planned reorganizations or other changes in light of budgetary constraints, we would consider those should significant health care reform or welfare reform initiatives require us to do so. In those cases we would work closely with Congress, and others, to develop new and appropriate organizational arrangements.
- ▶ Relative to recruiting or retaining a motivated work force in light of the hiring freeze and other funding constraints, at HHS our plans for meeting the Administration's streamlining goals are just now being finalized. We have no overall hiring freeze in place at this time. Rather than speculate on the impact of a hiring freeze or funding constraints taken in isolation, I would like to respond to this question in the broader context of our real aim, which is to reinvent the way we do business. Through this process we will take a hard look at our programs to see how they can be made more responsive to the needs and expectations of our customers. This will include determining how our human resources should be aligned to achieve improved service delivery -- which I would term "rightsizing" rather than "downsizing".

### QUESTION 2

One concern I have had about HHS in the past is that, at times, cross-cutting issues can fall between the cracks or they do not receive the same priority across agencies.

--May we call on your for advice or assistance on such issues?

--One example I have in mind is rural issues. HRSA's Office of Rural Health has done an excellent job in advocating the health needs of rural America, but HRSA is just one small part of HHS which does not have authority over social services, or health care financing. Some in the Senate have advocated an assistant secretary for rural affairs position to address that need. What do you think about this?

## ANSWER

- ▶ Yes, You may call on me for advice or assistance on cross-cutting issues. I would be pleased to respond in any way I can be helpful.
- ▶ The Office of Rural health Policy (ORHP) was placed within the Health Resources and Services Administration because the primary care services delivery programs are located within that agency.
- ▶ The Office has the statutory responsibility for advising the Secretary on the effects of Medicare and Medicaid policies and proposed changes in law and regulation on people living in rural areas and the providers and institutions that serve them.
- ▶ ORHP is a strong advocate for rural issues and their views play a role in policy formulation not only within the Public Health Service, but also for other Department entities including the Health Care Financing Administration.
- ▶ The organizational location of ORHP has not deterred in any way its effectiveness in coordinating issues related to rural health. Therefore, we do not support creating an Assistant Secretary for Rural Affairs position; however, Secretary Shalala and I would be open to learning more about what the Senator has to say on this topic.

## QUESTION 3

As you may be aware, food and drug law is a special interest of mine. Of late, I have been concerned about severe funding constraints for FDA which have delayed approval times for new drugs and devices. P.L. 102-671, the new FDA user fee law, should deal with part of that.

--Do you plan to play a role in FDA policy?

--What can we do to speed medical device approvals?

## ANSWER

- ▶ I have an interest in FDA issues and if confirmed, I expect to participate in FDA policy matters that concern the Secretary. The FDA is making a number of improvements to its review of medical device applications. It is instituting a triage system for identifying applications for new devices that may pose a high degree of risk or those representing new technologies with lifesaving potential. Such applications would receive special attention. The agency is also expanding its staff of reviewers to keep up with the increasing influx of applications. FDA is also establishing criteria under which it will no longer process certain applications which are grossly inadequate so that time and resources can be put to more efficient use.

## QUESTION 4

Will you give us your assurance that you will be accessible to Members of Congress who might have issues of interest or concerns they wish to bring to your attention or that of the Secretary?

## ANSWER

- ▶ Senator, you have my assurance that there will be accessibility for Members of Congress who might have issues of interest or concern that they would like to bring to my attention or to the attention of the Secretary.
-

PN266

## NOMINATION REFERENCE AND REPORT

AS IN EXECUTIVE SESSION.  
SENATE OF THE UNITED STATES.  
April 27, 1993.

Ordered, that the following nomination be referred to the Committee on Finance:

David T. Ellwood, of Massachusetts, to be an Assistant Secretary of Health and Human Services, vice Martin H. Gerry.

, 1993.

Reported by Mr. \_\_\_\_\_ with the  
recommendation that the nomination be confirmed.

## A. BIOGRAPHICAL:

1. Name: David T. Ellwood
2. Address: 18 Ravine Road; Winchester, Massachusetts 01890
3. Date and place of birth: September 16, 1953, Minneapolis, Minn.
4. Martial status: Married - Marilyn Kay Parker Rymer Ellwood
5. Names and ages of children: Malinda Ann Ellwood - 14 years old  
Andrea Marie Ellwood - 9 years old
6. Education: Blake School 9/65-6/71 High School Degree granted  
Harvard College 9/71-6/75 A.B. granted 6/75  
Harvard University 9/76-10/81 Ph.D. Economics  
granted 10/81
7. Employment: Research Assistant  
Urban Systems Research and Engineering 7/75-9/78  
Cambridge, MA.  
Research work on Medicaid eligibility  
  
Research Associate 9/75-6/76  
Health Policy Program  
University of California at San Francisco  
San Francisco, CA.  
Work on national health insurance ideas  
  
Kennedy School of Government  
Harvard University  
Cambridge, MA.  
Academic research
  - a. Assistant Professor of Public Policy 9/80-6/84
  - b. Assistant Professor of Public Policy 7/84-6/88
  - c. Professor of Public Policy 7/88 - Present
  - d. Co-director, Malcolm Wiener Center for Social  
Policy 7/92 - Present
  - e. Academic Dean 7/92 - Present  
Self-employment, consulting 9/76 to present  
Winchester, MA.  
Intellectual consulting work regarding Social  
Policy

8. Government Experience: During the past few years, I have met with senior state government officials (sometimes including the Governor) in: Massachusetts, Connecticut, Vermont, California, Washington (state), Georgia, Florida, Ohio, New York, Indiana, Iowa. Made presentations for governors at National Governors Association meeting Midwest Governors Association. Made presentation before Human Service Directors at meeting of American Public Welfare Association.
- I have made various presentations for members of Congress.
- I occasionally met with senior White House - HHS officials over the past 5 years, though I received no compensation.
9. Memberships: School Utilization committee-Winchester Public Schools (unpaid committee to advise school Board)  
American Civil Liberties Union  
Amnesty International  
National Audubon Society  
American Economic Association
- Panel member: Committee on the Status of Black Americans, National Academy of Sciences
- Member: National Forum on the Future of Children and Their Families, National Academy of Sciences  
Panel on Poverty Statistics, National Academy of Sciences Center on Budget and Policy  
Priorities Work/Welfare Advisory Board  
Manpower Demonstration Research Corporation  
Children's Program, Advisory Board, Edna McConnell Clark Foundation  
Child and Family Policy Center, National Advisory Board
10. Political affiliations: Provided financial and intellectual support for Clinton for President, Dukakis for President. Financial support for some other Democratic candidates.
11. Honors and Awards: George Kershaw Award of the Association of Public Policy Analysis and Management for Outstanding Contributions to Policy Analysis and Management by Someone under 40.
- Poor Support was selected by the New York Times Book Review as one of the most notable books of 1988. It was chosen as the outstanding book in policy studies by the Policy Studies Organization.
- Invited Faculty Member, Retreat of the U.S. Ways and Means Committee
- Harvard University Lehman Fellow
- Phi Beta Kappa
12. Published writings:
- Understanding Welfare (tentative title) with Mary Jo Bane, Harvard University Press, forthcoming.
- "Issues in Time Limited Welfare", mimeo, December 1992.
- "Mr. Wilson's Neighborhoods? Review of Neighborhood Effects Papers", mimeo. 1992.



"Child Support Enforcement and Insurance: A Real Welfare Alternative", Mimeo, March 1992.

"Is American Business Working for the Poor?", with Mary Jo Bane in Harvard Business Review September-October 1991.

"Next Steps for the Family," The Responsive Community: Rights and Responsibilities, Volume 1, Issue 2, Spring 1991.

"The Hazards of Work and Marriage: The Influence of Male Employment on Marriage Rates," with David T. Rodda, Malcolm Wiener Center for Social Policy Working Paper #H-90-5, March 1991.

"Medicaid Mysteries: Transitional Benefits, Medicaid Coverage, and Welfare Exits," Health Care Financing Review, 1990 Annual Supplement.

"Ghetto Poverty: A Theoretical and Empirical Framework," with Paul A. Jargowsky, Malcolm Wiener Center for Social Policy, Working Paper #H-90-7, October 1990.

"Reducing Poverty by Replacing Welfare: Income Support Strategies for the Nineties", Malcolm Wiener Center for Social Policy Working Paper #H-90-10, September 1990.

"Family Change Among Black Americans: What Do We Know?", with Jonathan Crane in Journal of Economic Perspectives Volume 4, No. 4, Fall 1990.

"Welfare to Work Through the Eyes of Children: The Impact on Children of Parental Movement from AFDC to Employment," with Julie Boatright Wilson, November, 1989.

"Understanding Dependency," Focus Volume 12, No. 1, Spring and Summer 1989.

"The American Way of Aging: An Event History Analysis," with Thomas Kane and David A. Wise, editor, Economics of Aging, II (working title) (Chicago: University of Chicago Press; forthcoming).

"One Fifth of the Nation's Children: Why Are They Poor," with Mary Jo Bane, Science, September 8, 1989.

Welfare Reform: What We Know and What We Don't, ed. with Phoebe Cottingham (Cambridge: Harvard University Press, 1989).

"Welfare in America -- Revise it, Reform it, or Replace it?" In Phoebe Cottingham and David T. Ellwood, eds., Welfare Reform: What We Know and What We Don't, (Cambridge: Harvard University Press, 1989).

Poor Support: Poverty and the American Family, (New York: Basic Books, 1988).

Divide and Conquer: Responsible Security for American Families. Ford Foundation Project on Social Welfare and the American Future, Occasional Paper 1, (New York: Ford Foundation, 1987).

"Valuing the United States Income Support System for Single Mothers," prepared for December 1987 OECD Conference on Lone Parents.

"Understanding Dependency: Choices, Confidence or Culture," report prepared for the Office of Planning and Evaluation, U.S. Department of Health and Human Services, October, 1987.

"Poverty in America: Is Welfare the Answer or the Problem?" with Lawrence Summers, in The Public Interest, Number 3, Spring 1986, and in Sheldon Danziger and Daniel Weinberg, eds., Fighting Poverty: What Works and What Doesn't, (Cambridge: Harvard University Press, 1986).

"Uncle Sam Wants You--Sometimes: Military Enlistments & the Youth Labor Market," with David A. Wise. In David A. Wise, ed., Public Sector Payrolls, (Chicago: University of Chicago Press, 1987).

"Military Hiring and Youth Employment," with David A. Wise, in David A. Wise, ed., Public Sector Payrolls, (Chicago: University of Chicago Press, 1987).

"The Impact of Right-to-Work Laws on Union Organizing," with Glenn Fine, Journal of Political Economy, April 1987.

"The Spatial Mismatch Hypothesis: Are There Teenage Jobs Missing in the Ghetto?", in Richard Freeman and Casey Ichniowsky, ed., The Black Youth Employment Problem, (Chicago: University of Chicago Press, 1986).

"Slipping Into and Out of Poverty: The Dynamics of Spells," With Mary Jo Bane, National Bureau of Economic Research Working Paper, 1983, published in Journal of Human Resources, Volume XXI, No.1, Winter 1986.

"Outside the Ghetto," The New Republic, October 8, 1986.

"Measuring Income: What Kind Should Be In", with Lawrence Summers, U.S. Bureau of the Census, Proceedings of the Conference on the Measurement of Noncash Benefits, Vol. 1, 1985; Harvard Institute for Economic Research Discussion Paper, May, 1986.

"The Impact of AFDC on Family Structure and Living Arrangements," with Mary Jo Bane, in Research in Labor Economics Volume 7, 1986.

Working Off Welfare: Prospects and Policies for Self-Sufficiency of Female Family Heads," January, 1986.

"Targeting 'Would be' Long Term Recipients of AFDC", Department of Health & Human Services, Mathematica Policy Research, Inc., Princeton, NJ, January, 1986.

"Pensions and the Labor Market: A Starting Point," David A. Wise, editor, Pensions, Labor and Individual Choice, (Chicago: University of Chicago Press, 1985).

"Charles Murray: Did Robin Hood Ruin the Kingdom?", paper presented at American Public Welfare Association Conference, Washington, DC, May 1985.

"Single Mothers and Their Living Arrangements," with Mary Jo Bane, report prepared for the Office of Planning and Evaluation, U.S. Department of Health and Human Services, 1985.

"The Dynamics of Children's Living Arrangements," with Mary Jo Bane, report prepared for the Office of Planning and Evaluation, U.S., Department of Health and Human Services, 1985.

"The Summer Youth Program: Job Supplement or Displacement," with Jon Crane, Working Paper, March 1984.

"The Dynamics of Dependence: The Routes to Self-Sufficiency", with Mary Jo Bane, prepared for the Office of Planning and Evaluation, U.S. Department of Health and Human Services, June 1983.

"The Hope for Self-Support: Work and Poverty in Massachusetts," in Manuel Carballo and Mary Jo Bane, eds., The State and the Poor in the 1980s, (Boston: Auburn House, 1983).

"Youth Employment in the 1970s: The Changing Circumstances of Young Adults," with David A. Wise, in Richard Nelson and Felicity Skidmore, ed., \_

American Families and the Economy: The High Costs of Living, (Washington, D.C.: National Academy Press, 1983).

"Teenage Unemployment: Permanent Scars or Temporary Blemishes?" In Richard B. Freeman and David A. Wise, eds., The Youth Labor Market Problem: Its Nature, Causes, and Consequences, (Chicago: University of Chicago Press, 1982).

"Teenage Unemployment: What's the Problem?" with Martin S. Feldstein and Richard B. Freeman and David A. Wise, eds., The Youth Labor Market Problem: Its Nature, Causes, and Consequences, (Chicago: University of Chicago Press, 1982).

The Mismatch Hypothesis: Are There Teenage Jobs Missing in the Ghetto? Ph.D. dissertation, November 1981.

"A Reconciliation of Micro and Grouped Estimates of Housing Demands," with Mitchell Polinsky, Review of Economics and Statistics, May 1979).

A Comprehensive Review of Medicaid Eligibility, with Marilyn Rymer, Gene Oksman, and Lawrence Bailis, Westfield Press, 1981. Excerpts are also reprinted in Allen Spiegel, ed., The Medicaid Experience, (Aspen Systems Corporation, 1979).

"Evaluation of Medicaid Spend-Down," with Marilyn Rymer, Warren Oksman, and Lawrence Bailis, in Allen Spiegel, ed., The Medicaid Experience, (Aspen Systems Corporation, 1979).

A Comprehensive Review of Medicaid Eligibility, Volume II: Methodology For Estimating the Costs of Medicaid Eligibility Policy Changes, prepared for Health Care Financing Administration, Department of Health, Education, and Welfare, under contract with Urban Systems Research and Engineering, 1977.

Evaluation of Medicaid Spend-Down, Volume IX: Spend-Down Participation Rate, prepared for the Department of Health, Education, and Welfare, under contract with Urban Systems Research and Engineering, 1976.

#### Op/Ed Pieces and Book Reviews:

"If You Work, You Shouldn't Be Poor." The Washington Post, April 4, 1989.  
Review of "Poverty Policy and Poverty Research: The Great Society and the Social Sciences, by Robert H. Haveman in Journal of Economic Literature, Vol. XXVII, March 1989.

"Farewell to Welfare: A Working Solution." Los Angeles Times, July 31, 1988.

"From Welfare Reform to Replacing Welfare." The Boston Globe, July 31, 1988.

"Reforming Welfare: Treat the Causes, Not the Symptoms." New York Times, July 17, 1988.

"The Mystery of Unwed Motherhood." Los Angeles Times, February 1986.

#### 13. Speeches:

As an academic, I literally give dozens of talks, guest lectures, and seminars and I do not keep a record of all of them. I never prepare a written set of remarks as I prefer to work from notes; which I subsequently discard. My talks closely parallel my writings. According to my records the major out-of-town talks I have given over the last 3 years are:

Speech - Columbia University Forum on Family Policy (Airlie House) 12/5/93  
Speech - The Public Relations Forum 5/21/92  
Speech - State of Minnesota 7/20/92  
Speech - State of Minnesota 8/8/92  
Speech - State of Florida 6/17/92  
Speech - University of California 9/9/92  
Speech - Commonwealth of Virginia  
Speech - Sanford Bernstein & Company 10/26/92  
Speech - Robert Wood Johnson Foundation 10/28/92  
Speech - A T & T 12/16/92  
Speech - New York Medical Society 5/20/91  
Speech - Russel Sugi Foundation 1/4/91  
Speech - Rockefeller Foundation 1/29/91  
Speech - Children's Defense Fund 2/5/91  
Speech - Harvard Club of New York 3/7/91  
Speech - Eastern Regional Child Support Association 5/6/91  
Speech - Foundation for American Communication Studies 4/5/91  
Speech - Minnesota Children's Commission 9/25/91  
Speech - Midwest Governors 10/2/91  
Speech - American Public Policy and Management 10/24/91  
Speech - Columbia University 2/9/90  
Speech - National Commission on Children 3/26/90  
Speech - Ford Foundation 3/27/90  
Speech - National Academy of Sciences 3/30/90

Speech - PEW Foundation 3/19/90  
 Speech - National Council of State  
 Legislatures 5/19/90  
 Speech - National Commission on Children  
 12/12/90  
 Speech - Family Resources Coalition 12/14/90  
 Speech - University of California at  
 Los Angeles 7/24/90  
 Speech - Northeastern University 6/24/90  
 Talk - McNeil-Leher News Hour 6/25/90

## 14. Qualifications:

I have spent my entire adult career studying, researching and writing about social policy. I have served as Dean of Faculty at the Kennedy School and several other administrative capacities. I have spent considerable time with welfare recipients, social welfare administrators, local, state and federal legislators and officials.



United States

**Office of Government Ethics**

1201 New York Avenue, NW., Suite 500  
 Washington, DC 20005-3917

MAY 4 1993

The Honorable Daniel P. Moynihan  
 Chairman  
 Committee on Finance  
 United States Senate  
 Washington, DC 20510

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by David T. Ellwood, who has been nominated by President Clinton for the position of Assistant Secretary for Planning and Evaluation, Department of Health and Human Services.

We have reviewed the report and have also obtained advice from the Department of Health and Human Services concerning any possible conflict in light of its functions and the nominee's proposed duties. Also enclosed is a letter from the agency's ethics official, dated April 28, 1993, outlining the various recusals, waivers, and resignations which Mr. Ellwood has agreed to undertake.

Based on the foregoing, we believe that Mr. Ellwood will be in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

*Stephen D. Potts*  
 Stephen D. Potts  
 Director



## RESPONSES OF MR. ELLWOOD TO QUESTIONS SUBMITTED BY SENATOR HATCH

## QUESTION 1

Could you outline for me how you envision your role as Assistant Secretary and how you believe ASPE should relate to/support other offices and activities within HHS?

## ANSWER

- ▶ My principal role as Assistant Secretary is to provide the Secretary with good advice on policy issues based on sound analysis and directed to the full range of issues she will be addressing.
- ▶ As you know, Secretary Shalala and the Department already are addressing many important policy matters—including those related to health care and welfare reform, childhood immunization, at-risk children and families, the stability of the Social Security and Medicare trust funds, expansion and quality of Head Start and food and drug and device regulation. I will be significantly involved in defining policy alternatives and providing analyses and advice on these and on the many other issues Secretary Shalala will address.
- ▶ Second, I will play a major role in structuring major initiatives directed to reforming or improving existing programs. Specifically, in 1994 this will include:
  - Health Care Reform. ASPE has had a major role in the identification and analysis of health care reform options. We will continue this. Once the reforms are enacted, we will work with the Congress and others to implement and evaluate the reforms and assess their impact on providers of health care, patients, the general public, and on cost.
  - Welfare Reform. If confirmed I will co-chair, (along with Mary Jo Bane Administrator-designee of the Administration for Children and Families, and Bruce Reed of the White House) a working group on family support and independence that will jointly develop a welfare reform plan to be submitted to the Domestic Policy Council this fall.
  - Children and Families. HHS will devote a significant effort to enhancing assistance for at-risk children and their families. This will include a major initiative to determine how best to expand Head Start and ensure its quality. In addition, we expect to be working on implementation of the Family Preservation and Support bill, developed by ASPE and now being considered in Congress. That bill would require a major evaluation of services that would be funded through a new capped entitlement program.
  - Persons with Disabilities. The Social Security Administration, Public Health Service, and the Administration for Children and Families, with leadership from the Assistant Secretary for Planning and Evaluation, will undertake to improve services for persons with disabilities. This includes a new survey of people with disabilities and a variety of projects directed toward understanding recent increases in the caseloads under the Disability Insurance and SSI programs as well as a general effort to identify how better to serve SSA's clients.

My third role, if confirmed, will be to provide advice and assistance to our operating and staff divisions on policy issues and program analysis, on the development of legislation and regulations, and on defining and carrying out program evaluations.

Finally, we will undertake and sponsor policy research and program evaluation on major programmatic and policy issues and initiatives.

## QUESTION 2

Do you have any plans to "rebuild" or "refocus" OASPE after the changes it has undergone in the past decade?

## ANSWER

- ▶ Yes. This is an exciting and challenging time for OASPE. We are involved in the major initiatives and issues I mentioned above. Secretary Shalala is committed to systematic analysis, research, and evaluation and to ensuring that OASPE has the capacity to perform these functions well. The President's FY 1994 budget for OASPE includes an increase of \$7.5 million over the FY 1993 level for additional staff and research projects. This is a significant and important investment for HHS, albeit a small one compared with the hundreds of billions of dollars spent for health care and welfare in the United States.
- ▶ As I mentioned earlier, in FY 1994 we will focus on: (1) further refinement, detailed implementation design, and evaluation planning for health care reform, (2) the design of welfare reforms, (3) enhancing assistance for at-risk children and their families, and (4) continued efforts to understand trends and needs concerning persons with disabilities, and how to improve assistance to these persons.
- To do these things and to do them well, we will invest in rebuilding our data analysis and modelling capability to make our models better predictors of the effects and costs of alternative policies in the four areas.

## QUESTION 3

What is the status of the Administration's welfare reform initiative, and what will your role be?

## ANSWER

- ▶ Welfare reform activities are just beginning. As I mentioned earlier, if confirmed, I will be co-chair of a working group on family support and independence that will submit a reform plan to the Domestic Policy Council this fall. My office will have primary responsibility for analyses, evaluation, and research on welfare reform.
- ▶ As you know, the intent of this effort is to end welfare as we know it and give people a genuine opportunity to regain control of their lives. There will be four central elements:
  - (1) making work pay,
  - (2) dramatically improving child support,
  - (3) providing better training and support, and with the first three steps in place,
  - (4) moving to a transitional welfare system.

- ▶ Almost everyone believes that welfare does not work well. Many poor people are working, but remain poor. And despite a substantial federal investment in child support enforcement, only one-third of single parents receive child support.
- ▶ An effort to reform welfare requires major research, analysis, and modelling--similar to those for health care reform. For example, we will develop and refine understanding of work program effects and simulate impacts of and trade-off among various levels of tax credits, wage levels and subsidies, and benefits. We will examine welfare caseload dynamics and increases and analyze how families become dependent on welfare. We will examine new data on child support enforcement and simulate the effects of various program strategies.
- ▶ Furthermore, it is important to the overall reform effort to continue our evaluations of the JOBS program, the teen parent demonstration, and child support enforcement improvements. We plan to assess the relative utility of different types of support services, fund research on exemplary ways to provide such services and ensure their quality, and evaluate demonstrations aimed at improving employability.

#### QUESTION 4

Do you plan to be involved in the range of health and human services issues, including FDA matters? My office has been deluged with complaints by consumers and manufacturers in Utah who are concerned about FDA's approval process for medical devices. Can you be of assistance in improving this process?

#### ANSWER

- ▶ As I mentioned earlier, if confirmed I will be a principal advisor to the Secretary on all policy matters. Clearly, my staff and I have particular areas of expertise where we have more experience. However, we are also trained in analysis, research, and evaluation techniques, and will bring to Departmental consideration of virtually any issue a capacity to identify important questions and to find sound ways of answering them.
- ▶ Regarding your interest in FDA regulation, Dr. Lee, the Assistant Secretary for Health designee, and the Food and Drug Administration are directly responsible to the Secretary for ensuring appropriate regulation of food and drugs and medical devices. I will work closely with Dr. Lee in identifying ways to improve our regulation of these areas and to ensure that new regulatory proposals are sound.

#### QUESTION 5

Will you give us your assurance that you will be accessible to Members of Congress and their staffs who might have issues or interest of concern they wish to bring to your attention or that of the Secretary?

#### ANSWER

Absolutely. If confirmed, I will respond promptly to questions and suggestions from all Members of Congress. I take this commitment very seriously. Further, I will seek your advice as we proceed with major initiatives such as welfare reform.

- ▶ It is important that we do so. Not only because as a practical matter the Congress will ultimately determine the fate of our legislative proposals, but also because the Congress--members and staff--constitute an important reservoir of knowledge, experience, and ideas which we will need to draw on in our analysis and deliberations.
- ▶ For example, in formulating our evaluation plans and our research analytic agendas, it will be important to meet with representatives of the Congress to get your views on important issues and areas where we need improved knowledge and understanding. To that end, my staff and I hope to begin meeting with House and Senate staff soon.

#### RESPONSES OF MR. ELLWOOD TO QUESTIONS SUBMITTED BY SENATOR WALLOP

**Question:** You will head the Planning and Policy Office at the Department of Health and Human Services. But, I understand that you will focus your work on social service and public assistance programs. Will you actually be determining and implementing federal policies as part of this expanded role?

**Answer:** My principal role as Assistant Secretary will be to provide the Secretary with good advice on policy issues based on sound analysis and directed to the full range of issues she will be addressing.

As you know, Secretary Shalala and the Department already are addressing many important policy matters -- including those related to health care and welfare reform, childhood immunization, at-risk children and families, the stability of the Social Security and Medicare trust funds, expansion and quality of Head Start and food and drug regulation. If confirmed, I will be significantly involved in defining policy alternatives and providing analyses and advice on these and the many other issues Secretary Shalala will address.

Second, I will play a major role in structuring major initiatives directed to reforming or improving existing programs if I am confirmed. Specifically, in 1994 this will include:

Health Care Reform. ASPE has had a major role in the identification and analysis of health care reform options. We will continue this role. Once the reforms are enacted, we will work with the Congress and others to implement and evaluate the reforms and assess their cost and their impact on providers of health care, patients, the general public.

Welfare Reform. If confirmed, I will co-chair (along with Mary Jo Bane, Assistant Secretary-Designate for Children and Families, and Bruce Reed of the White House) a working group on family support and independence that will develop a welfare reform plan to be submitted to the Domestic Policy Council this fall.

Children and Families. HHS will devote a significant effort to enhancing assistance for at-risk children and their families. This will include a major initiative to determine how best to expand Head Start and ensure its quality. In addition, we expect to be working on implementation of the Family Preservation and Support bill, developed by ASPE and now being considered in Congress. That bill would require a major evaluation of services that would be funded through a new capped entitlement program.



Persons with Disabilities. The Social Security Administration, Public Health Service, and the Administration for children and Families, with leadership from the Assistant Secretary for Planning and Evaluation, will undertake to improve services for persons with disabilities. This includes a new survey of people with disabilities and a variety of projects directed toward understanding recent increases in the caseloads under the Disability Insurance and SSI programs as well as a general effort to identify how better to serve SSA's clients.

My third role, if confirmed, will be to provide advice and assistance to the operating and staff divisions of HHS on policy issues and program analysis, on the development of legislation and regulations, and on defining and carrying out program evaluations.

**Question:** The Governor of the State of Wyoming has been in Washington the past few days, in part, to seek a federal waiver for the State Welfare Reform Program. This program expands employment requirements for welfare recipients and improves the child support enforcement program. The reforms are similar to those being developed by the Clinton Administration. A pilot project is proposed for three counties in Wyoming. The State Legislature set July, 1993 as the effective date for this program. Will you make a decision -- presumably a favorable one -- before that July deadline? I am concerned about the lengthy delays in providing the State of Oregon with a waiver for Medicaid reforms. I would hope this waiver process for the States could be accelerated.

**Answer:** The Administration is committed to addressing the states' concerns about the waiver process. The Medicaid waiver process has been very slow and cumbersome. If confirmed, I am strongly committed to making the Medicaid waiver process faster and more straightforward. As you may know the Administration has been working closely with the National Governors Association to forge a much improved working relationship between the Federal and state governments. Staff are already hard at work designing and implementing a streamlined waiver process.

The Wyoming waiver request only recently arrived, but the Department is working rapidly to process it. The Secretary is keenly aware of the July deadline and has committed to working closely with the state to ensure that the waiver is acted upon before July. If confirmed, I will do everything I can to see that the Department moves very expeditiously so as to meet that deadline.

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PN262

## NOMINATION REFERENCE AND REPORT

AS IN EXECUTIVE SESSION,  
SENATE OF THE UNITED STATES,  
April 27, 1993.

Ordered, that the following nomination be referred to the Committee on Finance:

Jean E. Hanson, of New York, to be General Counsel for the Department of the Treasury, vice Jeanne S. Archibald, resigned.

, 1993.

Reported by Mr.

with the

recommendation that the nomination be confirmed.

RESPONSE TO INFORMATION REQUESTED OF NOMINEES  
BY  
UNITED STATES SENATE  
COMMITTEE ON FINANCE

NOMINEE: JEAN E. HANSON

NOMINATED FOR: GENERAL COUNSEL  
DEPARTMENT OF THE TREASURY

A. BIOGRAPHICAL:

1. Name: Jean Elizabeth Hanson
2. Address: 11 Beechwood Road, Bronxville, New York 10708
3. Date and place of birth: June 28, 1949; Alexandria, Minnesota
4. Marital status: Married, Harold Barndt Hauptfuhrer
5. Names and ages of children: Benjamin Colman Hauptfuhrer (9); Catherine Jean Hauptfuhrer (9); Elizabeth Leigh Hauptfuhrer \* (stepdaughter - 21); Jonathan Barnes Hauptfuhrer (stepson - 21)
6. Education: University of Minnesota Law School, Minneapolis, Minnesota  
1973 - 1976, J.D., June 1976  
  
Luther College, Decorah, Iowa  
1967 - 1971, B.A., May 1971  
  
John Marshall High School  
Rochester, Minnesota  
Graduated June 1967
7. Employment record:  
  
Fried, Frank, Harris, Shriver & Jacobson  
One New York Plaza  
New York, New York 10004  
September 1976 - present (currently on leave)  
Associate - 1976 - 1983  
Partner - 1983 - present  
  
Minnesota State Public Defender  
Minneapolis, Minnesota  
Law Clerk  
June 1975 - May 1976

Hennepin County Probation Department  
 Minneapolis, Minnesota  
 Probation Officer  
 September 1972 - August 1973  
 June 1974 - August 1974

Hennepin County Welfare Department  
 Minneapolis, Minnesota  
 Eligibility Technician  
 September 1971 - September 1972

Donaldsons Department Store  
 Minneapolis, Minnesota  
 Sales Clerk  
 July 1971 - August 1971

8. Government experience:

None other than as set forth in response to item 7.

9. Memberships:

American Bar Association  
 New York State Bar Association  
 New York Women's Bar Association  
 The Association of the Bar of the City of New York  
 (Committee on Securities Regulation, 1991 - Present)  
 Village Lutheran Church, Bronxville, New York  
 Elementary School Council, Bronxville Elementary School  
 (Working Parents Liaison 1991 - 1993)  
 National Organization for Women (NOW)  
 Alumni Organizations - Luther College; University of  
 Minnesota Law School

10. Political affiliations and activities:

I am a registered Democrat.

I have not held any membership or office or rendered any services to any political party or election committee during the last ten years. I have made no financial contributions to political parties or election committees during the past ten years, although from time to time I have made contributions to candidates at the request of a friend or one of my law partners in connection with particular election contests. To my recollection, none of these contributions exceeded \$500 in any instance. The two most recent of such contributions were made in January 1993 (\$250 to Marcia Lee, a neighbor and friend seeking to become the Westchester County Clerk) and May 1992 (\$50 to one of my law partners for a dinner for President Clinton).

11. Honors and Awards:

Who's Who in America, 47th Edition, 1992 - 1993

Who's Who in American Law, 6th and 7th Editions, 1990 - 1993

Who's Who in American Women, 16th Edition, 1989 - 1990

Distinguished Service Award, Luther College, 1991

Robert Boynton, "Power of the City - Women in Law,"  
*New York Women* (March 1990)

Emily Couric, "50 Under 50 - On their Way,"  
*The National Law Journal* (June 5, 1989)

John Taylor, "Brief Encounters,"  
*Manhattan, Inc.* (March 1987)

Henry Weil, "Big Deals,"  
Savvy Magazine (March 1986)

"People to Watch,"  
Fortune Magazine (November 25, 1985)

Maureen McHugh Huber and Lewis Koflowitz,  
"The Corporate Finance Lawyers,"  
Investment Dealer's Digest, Vol. 51 No. 13 (April 2, 1985)

12. Published Writings:

"A Guide to Regulation S Under the Securities Act of 1933,"  
May 31, 1990 (shared authorship with Fried, Frank lawyers)

"Developments in Mergers and Acquisitions: The Offense,"  
co-authored with Stephen E. Jacobs, 21st Annual Institute  
Securities Regulation, PLI Corporate Law and Practice Course  
Handbook Series Number 662.

To my recollection, these are the only publications on which  
my name has appeared.

13. Speeches:

Presentation at the 1993 Annual Spring Meeting of the  
Section of International Law and Practice of the American  
Bar Association, April 29, 1993. Two copies of the prepared  
remarks, which I used as a general guide to the speech, are  
attached.

Introductory remarks at a forum entitled "Representing  
Corporate Clients in Government Investigations - Ethical  
Considerations" sponsored by the Committee on Securities  
Regulation and the Committee on Professional and Judicial  
Ethics of The Association of the Bar of the City of New York  
on June 15, 1992. I chaired the subcommittee of the two  
committees that sponsored the forum. The speech was not  
written and I have no copy.

I discussed stock transactions aspects of negotiated  
acquisitions in a presentation entitled "Negotiated  
Acquisitions" prepared by various partners of Fried, Frank  
for certain investment banks during the spring of 1991. My  
presentations were made to investment bankers at Morgan  
Stanley & Co. Incorporated and at Salomon Brothers Inc. Two  
copies of the presentation are attached.

I have also spoken at numerous meetings at Fried, Frank to  
various groups of associates on orientation, lawyering  
skills and attorney training. None of these speeches was  
written and no copies exist.

14. Qualifications:

I have been a practicing lawyer since September 1976 and a  
partner in the corporate department of Fried, Frank, Harris,  
Shriver & Jacobson in New York since September 1983. My  
background and experience are broad and varied, ranging from  
criminal law and enforcement work (as a probation officer  
and a law clerk for the Minnesota State Public Defender) to  
complex financial transactions. I have worked with domestic  
and foreign corporations, individuals and large companies,  
and regulated and unregulated industries. I have worked  
extensively with tax attorneys and on tax matters. I also  
have been responsible for the coordination and execution of  
complex transactions involving numerous attorneys,  
businessmen and support staff.



The scope of the work of the General Counsel is extremely broad. I believe that my broad exposure to various types of people and issues has prepared me to deal with the breadth of issues that the Office of General Counsel of the Treasury is presented. I also know how to work hard, which appears to be a prerequisite for the job.



United States  
**Office of Government Ethics**

1201 New York Avenue, NW., Suite 500  
Washington, DC 20005-3917

**MAY 13 1993**

The Honorable Daniel P. Moynihan  
Chairman  
Committee on Finance  
United States Senate  
Washington, DC 20510-6200

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Jean E. Hanson, who has been nominated by President Clinton for the position of General Counsel at the Department of the Treasury.

We have reviewed the report and have also obtained advice from the Department of the Treasury concerning any possible conflict in light of its functions and the nominee's proposed duties. Also enclosed is a letter from the ethics official of the agency dated May 10, 1993, which discusses Ms. Hanson's ethics agreements with respect to recusals, resignations, and a proposed waiver under 18 U.S.C. § 208(b).

Based thereon, we believe that Ms. Hanson is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

Stephen D. Potts  
Director

## PREPARED STATEMENT OF JERRY D. KLEPNER

Mr. Chairman, Senator Packwood, Distinguished Members of the Committee: My name is Jerry Klepner. I am honored to appear before you today as you consider my nomination to be the Assistant Secretary for Legislation at the Department of Health and Human Services.

There is great excitement in the air at H.H.S. In his first few months in office, President Clinton has announced bold new initiatives for the Department, including health care reform, welfare reform and childhood immunization. Each of these initiatives represents an opportunity to work closely with the Congress to help achieve our mutual goals of improving and protecting the health and welfare of the American people.

Let me just say a few words about how I see my future role at H.H.S. and why I feel I am qualified to serve as the Assistant Secretary for Legislation. If I am confirmed by the Senate, I will be called upon to act as a principal advocate before the Congress for the Administration's health and human services initiatives, and to serve as Secretary Shalala's principal advisor on legislative activities.

This will be an exciting challenge. And I hope my experience with the legislative process, both in the private and public sectors, has given me the skills necessary to succeed in position for which I have been nominated. During my tenure as Staff Director of the Post Office and Civil Service Subcommittee on Compensation and Employee Benefits, I helped to craft legislation that established a new retirement program for federal workers and improved the Federal Employee Health Benefits Program. Since that time, I have worked closely with the members of this great body, as well as with the House of Representatives, to develop bipartisan support for legislation in areas such as health care, child care, civil rights and family and medical leave. Through these experiences, I have become familiar with legislative policies and procedures and the concerns and priorities of individual members. I hope to be able to bring this experience and knowledge to bear as the Secretary's legislative advisor.

Mr. Chairman, one of the key lessons I have learned is that no Administration—including this one—can govern effectively without the involvement and cooperation of the Congress. Therefore, I pledge to you and the distinguished members of this committee that, if confirmed, I will work closely with members on both sides of the aisle to address the many important issues we face.

Thank you.

PN171

## NOMINATION REFERENCE AND REPORT

AS IN EXECUTIVE SESSION,  
SENATE OF THE UNITED STATES,  
April 5, 1993.

Ordered, that the following nomination be referred to the Committee on Finance:

Jerry D. Klepner, of Virginia, to be an Assistant Secretary of Health and Human Services, vice Steven B. Kelmar.

, 1993.

Reported by Mr.

with the

recommendation that the nomination be confirmed.

To: Lawrence O'Donnell  
Staff Director  
United States Senate  
Committee on Finance  
SD-205 Dirksen Building  
Washington, DC 20510

A. BIOGRAPHICAL

1. Name: Jerry D. Klepner
2. Address:
3. Date and Place of Birth: 12/4/44; St. Louis, Missouri
4. Marital Status: Married to Karetta Browning Hubbard
5. Names and Ages of Children: Robert Klepner, 23; Elizabeth Hubbard (Step Daughter), 26; Melissa Klepner, 21; Bibb Hubbard (Step Daughter), 24
6. Education:
 

University City HS	1959-62	Diploma	1962
Washington Univ.	1962-66	B.A.	1967
Washington Univ School of Law	1966-68	--	--
7. Employment Record:
 

Library of Congress, Assistant in Law Library, 2/28 - 6/68  
IRS, Tax Law Specialist, 6/68 - 11/68  
Bureau of National Affairs, Assistant Editor, 11/68 - 7/70  
National Treasury Employees Union, Legislative and Public Affairs Director and Executive Vice-President, 7/70 - 2/84  
U.S. House of Representatives, Staff Director, Subcommittee on Compensation and Employee Benefits, 2/84 - 10/86  
Anderson, Benjamin, Read & Haney, Partner, 10/86 - 11/87  
AFSCME, Director of Legislation, 11/87 - 2/93
8. Not Applicable

## 9. Memberships

Virginia Statewide Health Coordinating Council	Commissioner	1986-88
Northern Virginia Health Systems Agency	Director	1986-88
GAO Quality of Federal Workforce Study	Advisor	1987-88

## 10. Political Affiliations and Contributions

## Political Affiliations

Fairfax County Democratic Committee  
 Virginia State Democratic Party  
 Democratic National Committee, Assisted in Preparing  
 Platforms in 1988 and 1992  
 National Democratic Club

## Political Contributions

Fairfax County Democratic Committee	Byrne for Congress
Virginia State Democratic Party	Miller for Congress
Panino for Supervisor	Miliken for Congress
Byer for Lieutenant Governor	Clinton for President
Bailliles for Governor	Dukakis for President
Wilder for Governor	Mondale for President

## 11. Honors and Awards

Vice-President of Student Assembly, Washington University

## 12. Published Writings

"FERS Retirement Guide," 1987, Anderson, Benjamin, Read, &  
 Haney  
 Editorial, Federal Times, 1983  
 Quarterly & Bi-Annual Legislative Reports, AFSCME, 1987-93

## 13. Speeches

I gave numerous speeches to AFSCME conferences and council  
 conventions over the past three years concerning social  
 policy and labor issues under consideration by Congress. I  
 never used a prepared text.

## 14. Qualifications

My more than 20 years of experience with the legislative  
 process and my extensive background in health care, children  
 and family, and aging/pension issues uniquely qualify me to  
 serve as Assistant Secretary for Legislation at the  
 Department of Health and Human Services.





United States

**Office of Government Ethics**

1201 New York Avenue, NW., Suite 500

Washington, DC 20005-3917

April 15, 1993

The Honorable Daniel P. Moynihan  
Chairman  
Committee on Finance  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Jerry P. Klepner, who has been nominated by President Clinton for the position of Assistant Secretary for Legislation at the Department of Health and Human Services.

We have reviewed the report and have obtained advice from the Department of Health and Human Services concerning any possible conflict in light of the Department's functions and the nominee's proposed duties. Also enclosed is a letter from the ethics official of the agency, dated April 7, 1993, which discusses Mr. Klepner's ethics agreements with respect to recusals and certain other matters.

Based thereon, we believe that Mr. Klepner is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

A handwritten signature in dark ink, appearing to read "Stephen D. Potts".

Stephen D. Potts  
Director

## RESPONSES OF MR. KLEPNER TO QUESTIONS SUBMITTED BY SENATOR HATCH

## QUESTION 1

Mr. Klepner, you have one of the most important jobs at HHS in my estimation, because you are both the Secretary's "eye's and ears" on Capitol Hill, as well as our representative back at HHS.

--Could you outline for me your priorities for HHS and ASL?

--Will you give us your assurance that you will be accessible to Members of Congress and their staffs, who might have issues of interest or concern they wish to bring to your attention or that of the Secretary?

## ANSWER

- ▶ Senator Hatch, as Assistant Secretary for Legislation, my priority for HHS and ASL is to work closely with Congress to help achieve our mutual goals of improving and protecting the health and welfare of the American people.
- ▶ Through my experience with the legislative process, both in the private and public sector, one of the key lessons I have learned is that no Administration can govern effectively without the involvement and cooperation of Congress. You can be assured that, if confirmed, I will work closely with Members on both sides of the aisle to address the many important issues we face, and I will be accessible to Members of Congress and their staff.

## QUESTION 2

How do you see the role of your office vis-a-vis the various agency congressional liaison offices, such as those at NIH, SAMSHA, HCFA, etc?

## ANSWER

- ▶ Senator Hatch, the Office of the Assistant Secretary for Legislation will work in close cooperation with the various agency congressional liaison offices to assure a consistency in policy and in responsiveness to congressional concerns. I intend to establish a working relationship with the directors in the agency congressional liaison offices in which we exchange information and engage in joint problem-solving through personal contacts, weekly written reports and weekly meetings. Furthermore, I and members of my staff will be involved on a regular basis in intra-Departmental meetings to discuss agency-related legislative activities and Administration initiatives and policies.
-

## PREPARED STATEMENT OF AVIS LAVELLE

As the President's nominee to be Assistant Secretary for Public Affairs at the U.S. Department of Health and Human Services, I would like to thank the distinguished chairman and members of the Committee for the opportunity to appear before you today.

My name is Avis LaVelle, and I regard as a great challenge the task that lies before me if I am confirmed by the Senate. I am no stranger to a task of this sort, having served four years as press secretary to Mayor Richard Daley of Chicago. In that capacity, I was responsible for overseeing public education and outreach efforts for 45 city agencies, as well as the mayor's own public relations activities.

Prior to that time, I spent 12 years in the news media, the last five as chief political correspondent for a major radio and television outlet in Chicago.

As the largest and most complex of all federal government agencies, HHS presents both a huge responsibility and tremendous opportunity to effect positive change in the lives of millions of Americans.

Under the leadership of President Clinton and Secretary Donna Shalala, HHS will tackle some of the most difficult and challenging issues of our time: health care reform, welfare reform, the modernization of the Social Security system, expanding and revising Headstart, and immunizing all our children by the age of two. This administration takes seriously its mission to improve the health and welfare of the American people, especially our children.

Expanding access to services is critical, but equally important is educating and informing the public about the services that are already available.

If I am confirmed by the Senate, I will view as my mission the expansion of access to information about the vast array of innovative programs and services that will emerge from HHS as this administration moves forward. I understand that even the best programs and innovations are meaningless if no one is aware of them. My goal for HHS is to use 21st century technology to inform a broad cross-section of the country about the wonderful works of this department. HHS is filled with thousands of creative, talented and committed employees who do excellent work. Taxpayers and beneficiaries should know about the valuable services we deliver and, more importantly, they should know that we deliver them in a professional and cost-effective manner.

Thank you.

PN156

## NOMINATION REFERENCE AND REPORT

AS IN EXECUTIVE SESSION,  
SENATE OF THE UNITED STATES,  
April 1, 1993.

Ordered, that the following nomination be referred to the Committee on Finance:

Avis LaVelle, of Illinois, to be an Assistant Secretary of Health and Human Services, vice Alixe Reed Glen.

, 1993.

Reported by Mr. \_\_\_\_\_ with the  
recommendation that the nomination be *confirmed*.

## OUTLINE OF INFORMATION REQUESTED OF NOMINEES'

## PART A: BIOGRAPHICAL

NAME:	Avis LaVelle Sampson-Elliott
ADDRESS:	100 14th St.NE, Apt.B, Washington DC.20002
DATE/PLACE OF BIRTH	3-5-54, Chicago, Illinois
MARITAL STATUS:	Married to Thomas Carlton Elliott
CHILDREN:	1 step-daughter, Antoinette, Age 17
EDUCATION:	B.S. Communications(Cum Laude), University of Illinois, January 1975
EMPLOYMENT RECORD:	Assistant Secretary for Public Affairs-Designate,U.S.Department of Health and Human Services, January 1993-present (See attachment #1)
GOVERNMENT EXPERIENCE:	(See attachment #1)
MEMBERSHIPS:	Apostolic Church of God, Chicago, Illinois; Project Image, Inc.Chicago, Illinois Black Adoption Taskforce of Illinois; Delta Sigma Theta Public Service Sorority; Human Resources Development Institute,Inc.; Illinois "The Girlfriends" Social Club, Chicago,
POLITICAL AFFILIATIONS AND ACTIVITIES:	Registered Democrat, National Press Secretary, Clinton-Gore Campaign, 1992 Campaign Press Secretary, Richard M.Daley for Mayor(Chicago) 1989. Contributions to: Clinton-Gore Campaign Richard M. Daley for Mayor Harold Washington for Mayor(Chicago)



**HONORS AND AWARDS:**

"Dollars and Sense" Magazine, African-American Business and Professional Woman Award, 1989  
 Associated Press Award, 1st Place Team Coverage, 1984,  
 "Women at Work" award, National Commission on Working Women, 1980,  
 Arson-for-Profit legislation sponsored by Indiana State Representative Carolyn Mosely, 1979, as a result of documentary produced for WLTH radio.

**PUBLISHED WRITINGS:**

None

**SPEECHES:**  
History

Truman College African American History Keynote Speaker, February, 1992,  
 Englewood High School Alumni Appreciation Day, June 1991,  
 Catherine College Commencement Address, June, 1991,  
 (Texts unavailable)

**QUALIFICATIONS**

I bring to this position extensive experience both as a government spokesperson and as a former member of the working press. This combination of practical experience "on both sides of the desk" has given me a unique perspective on how the job of supplying public information from government offices should be done. I have, in my capacity as Mayoral Press Secretary in Chicago, been responsible for the supervision of public information officers in 45 government agencies and well as direct supervision of a large staff within the executive offices of the Mayor. Primary among those duties was the task of overseeing the development of a number of public service/information campaigns to educate the public about major initiatives city government was about to undertake. Additionally, efforts were also required to mobilize corporate and civic community support for government/private sector partnership projects (which were increasingly more critical as government resources became more scarce.) Additionally, my stint as National Press Secretary for the Clinton-Gore campaign, gave me the opportunity to develop working relationships with the national media who now recognize the fact that they can rely on me to respond to their inquiries and requests with speed, honesty and integrity at all times.

As a result of having been a reporter for more than a dozen years, I bring to this post the ability to perceive the potential impact of issues under consideration and can work to develop government policies and practices that the public can better appreciate because the goals and objectives can be better understood.

Attachment #1

Avis LaVelle Sampson-Elliott  
 4800 Chicago Beach Drive #1112South  
 Chicago, IL 60615  
 (312)624-4816 (Chgo)  
 (202) 544-6037 (Wash.D.C. Home)  
 (202) 690-7850 (Office H.H.S)  
 SS# 326-46-3043

Education:

Englewood High School, Chicago, Illinois, 1971.  
 University of Illinois, Champaign, B.S. Communications( Cum Laude), 1975.

Employment and Practical Experience:

- November 1992- January 1993 Special Assistant to Presidential Transition Chairman  
 Vernon Jordan. Assumed follow-up responsibilities from all  
 of Chairman's meetings including summary memos to policy  
 directors; speechwriting, time and personnel management.
- June-November 1992 National Press Secretary, Clinton for President Campaign.  
 Acted as "on-the-record" spokesperson for campaign for  
 electronic and print journalists; managed national campaign  
 headquarters press operation with approximately 20  
 staffmembers; created and supervised community, ethnic and  
 minority outreach efforts through print and electronic media;
- April 1989-Nov. 1992 Press Secretary to Chicago Mayor Richard M. Daley.  
 Acted as "on-the-record" spokesperson for Mayor Daley;  
 managed Mayoral Press Office staff of 20 in addition to 45  
 Public Information Officers in City of Chicago Departments;  
 planned media and public relations strategy for Mayor Daley;  
 acted as general policy and political advisor.
- December 1988-April 1989 Press Secretary, Richard M. Daley for Mayor Campaign.  
 Established and directed campaign press office with staff of  
 7; acted as "on-the-record" spokesperson for Candidate Daley;  
 assisted in planning of media strategy for campaign; acted as  
 general policy and political advisor.
- March 1984-Dec. 1989 Chief Political Correspondent, WGN Radio-TV, Chicago.  
 Acted as chief correspondent for all political stories, national,  
 state and local, for Chicago's Number One radio station;  
 reported on "spot" news and developing crises in metropolitan  
 Chicago area and statewide; hosted weekly talkshow on political  
 issues with state, national and local newsmakers; participated as  
 regular guest on televised weekly political analysis program.
- Nov. 1979-March 1984 News Anchor/Reporter, WJJD/WJEZ Radio, Chicago.  
 Wrote and anchored morning drive newscasts for major radio  
 stations; reported political and spot news developments; hosted  
 weekly political/current affairs talkshow; participated as regular  
 guest on televised weekly political analysis program.

July 1978- Nov. 1979

News Director, WLTH Radio, Gary, Indiana.

Supervised a staff of four reporters; wrote and anchored morning drive newscasts; hosted political/current affairs talkshow and call-in program with Gary Mayor Richard Hatcher; wrote and produced documentary programs that led to passage of new legislation pertaining to Transporation of Hazardous Waste(federal) and Arson for Profit( state).

*January* 1977-July 1978

Public Affairs Director/Announcer, WTAX Radio, Springfield,IL. Hosted daily music and talk program and was responsible for public affairs programming for station.

**Other Professional Experience:**

\*Instructor, English and Persuasive Speech, University of Chicago, Office of Special Programs--taught gifted High School Juniors and Seniors in after-school and summer enrichment program.

*January 1975 :- June 1979 (Periodically)*

\*Saleswoman, NCR Corporation, Dayton, Ohio, National Sales Staff Liason for Federated Store:

**June 1976- January 1977**



United States

**Office of Government Ethics**

1201 New York Avenue, NW., Suite 500  
Washington, DC 20005-3917

MAR 15 1993

The Honorable Daniel P. Moynihan  
Chairman  
Committee on Finance  
United States Senate  
Washington, DC 20510-6200

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Avis Lavelle Sampson-Elliott, who has been nominated by President Clinton for the position of Assistant Secretary for Public Affairs at the Department of Health and Human Services.

We have reviewed the report and have also obtained advice from the Department of Health and Human Services concerning any possible conflict in light of its functions and the nominee's proposed duties. Also enclosed is a letter dated April 5, 1993, from the department's Designated Agency Ethics Official, which discusses the nominee's ethics agreements with respect to recusals.

Based thereon, we believe that Avis Lavelle Sampson-Elliott is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

Stephen D. Potts  
Director

[SUBMITTED BY SENATOR DANIEL PATRICK MOYNIHAN]

THE WHITE HOUSE

WASHINGTON

April 21, 1993

Dear Mr. Chairman:


Thank you for your letter of April 10, 1993. I appreciate your support for the concept of a health security card. I have passed on your ideas about combining the Social Security and health care cards to my Task Force on National Health Care Reform. We will continue to talk with you as we progress in our deliberations.

I share your concern about the need to bolster public confidence in the Social Security system. This Administration is fully committed to implementing the legislation requiring mailings of Personal Earnings and Benefit Estimate Statements which you championed so effectively. A planning effort is in place to send citizens statements that include information on their contributions and expected benefits. We will begin to mail these statements to selected populations during FY 1995 in accordance with the law. I am certain that Secretary Shalala would be pleased to talk with you about her specific plans in this area.

The selection of a nominee for Commissioner of Social Security is a high priority, and our search must be thorough and rapid. The Secretary and I agree that the Social Security Commissioner needs to be a person who will provide leadership, vision, and commitment. Social Security is a compact among the generations, and we must see to it that it is honored.

With best wishes,

Sincerely,



The Honorable Daniel Patrick Moynihan  
United States Senate  
Washington, D.C. 20510

*The annual  
statement to  
Social Security.  
Bill is a great idea.*



## PREPARED STATEMENT OF HARRIET RABB

Good morning, Mr. Chairman and members of the committee. My name is Harriet Rabb. I am honored to be here today as you consider my nomination to be General Counsel of the Department of Health and Human Services. With your permission, I will briefly describe my background, and would then be pleased to answer any questions that you have.

Immediately preceding my nomination, I served as vice dean and was the George M. Jaffin Professor of Law and Social Responsibility at the Columbia University School of Law in New York City. I joined the Columbia faculty in 1971 after several years in public interest law and a period of service in New York City government. During more than 22 years at Columbia, I taught in and directed the school's clinical law curriculum in the areas of employment and housing discrimination law, immigration law, education policy and in New York City's office of the corporation counsel. My experience cuts across policy and litigation lines and, as well, across a wide variety of subject areas. This has been excellent preparation for the General Counsel's position at HHS.

The work of the General Counsel involves supporting the Department's operating divisions and the Office of the Secretary as legislation and regulations codify policy on issues arising out of the Department's jurisdiction. In shaping those policies, the Department looks to the General Counsel's Office for guidance on the constraints and opportunities offered in the relevant law. The General Counsel's Office also manages the Department's litigation docket and recommends to the Justice Department courses of action to further the Department's and the public's interest.

My work in and for New York City government and in the policy clinic I directed have prepared me for the legal policy work at HHS. My years of litigation in Federal and administrative forums have prepared me for the Office's case control work. My experience as a member of the law school management team and as a member of a number of not-for-profit boards, including the board of the Ford Foundation, has grounded me in the demands of managing the large law office for which I would become responsible.

Mr. Chairman, should this committee act favorably on my nomination, I very much look forward to having the benefit of your advice and experience. I am pleased to answer any questions that you may have and look forward to working with you in the coming years.

PN181

## NOMINATION REFERENCE AND REPORT

SENATE OF THE UNITED STATES,

April 7, 1993.

(Under authority of the order of the  
Senate of January 3, 1993.)

*Ordered*, that the following nomination be referred to the Committee  
on Finance:

Harriet S. Rabb, of New York, to be General Counsel of the Department  
of Health and Human Services, vice Michael J. Astrue, resigned.

, 1993.

Reported by Mr.

with the

recommendation that the nomination be *confirmed*.

TO: Lawrence O'Donnell, Jr.  
Staff Director  
United States Senate  
Committee on Finance  
SD-205 Dirksen Building  
Washington, D.C. 20510

FROM: Harriet Rabb  
RE: Information Requested of Nominees  
DATE: March 10, 1993

## A. BIOGRAPHICAL

1. Harriet Rabb [Harriet Rachel Schaffer; Harriet Schaffer Van Tassel]
  2. 580 West End Avenue, New York, New York 10024
  3. Houston, Texas September 12, 1941
  4. Married; Spouse: (Richard) Bruce Rabb
  5. Alexander, 19; Katherine, 18
  6. Columbia Law School 1963 - 1966; June, 1966; J.D.  
Barnard College 1959 - 1963; June, 1963; B.A.
  7. Columbia Law School 1971 - Date [New York City]  
Assistant Dean for Urban Affairs; Clinical Professor of Law; Director of Clinical  
Education; Professor of Law; George M. Jaffin Professor of Law and  
Social Responsibility; Vice-Dean.  
During my employment at the Law School until July, 1992, I have  
been teaching in and directing the clinical law  
program. Since July, 1992, I have been Vice-Dean of the School,  
teaching in the Professional Responsibility Program.
- Stern Community Law Firm 1970 - 1971** [Washington, D.C.]  
Senior staff attorney specializing in consumer protection litigation.
- New York City Department of Consumer Affairs 1969 - 1970**  
[New York City]  
Special Counsel to Bess Meyerson, Commissioner of Consumer  
Affairs, conducting hearings and investigation of specific consumer  
frauds and preparing legislation and investigative reports on unit  
pricing.
- Center for Constitutional Rights 1967 - 1969** [Newark, N.J.]  
Staff attorney doing civil rights and civil liberties litigation.

**Rutgers Law School 1966 - 1967** [Newark, N.J.]  
Instructor in seminar on Constitutional Litigation.

**Law Students Civil Rights Research Council Summers, 1964 and 1965** [New York City]  
One of a number of students assigned to assist lawyers in New York City doing civil rights work.

8. **Founder/Director of the Fair Housing Clinic 1988 - 1991**  
This clinic represented victims of housing discrimination before the New York City and New York State Human Rights Commissions and in federal and state courts.

**Founder/Director of the Education Law Project 1986 - 1987**  
This clinic at Columbia Law School involved my students in policy research relevant to current issues of consequence to the New York City public education system. Studies included work on redistricting community school redistricting and impediments to that action imposed by the Voting Rights Act; certifying and licensing an adequate and appropriate teacher pool for New York City; and desegregating the New York City high schools. The clinic generated data and legal materials on which policy options rested and then evaluated those options. Studies and proposals were published and distributed among education policy makers in New York City and State and at the State Legislature.

**Founder/Director of the Immigration Law Clinic 1980 - 1986**  
This clinic at Columbia Law School engaged in law reform and legal service work for poor aliens requiring immigration and/or refugee counsel and assistance before the Immigration and Naturalization Service and/or in federal court.

**Founder/Director of the Big Apple Clinic 1978 - 1980**  
This clinic at Columbia Law School worked in the office of the Law Department of the City of New York with students acting as adjuncts to the Corporation Counsel legal staff on cases brought by and against New York City.

**New York City Department of Consumer Affairs 1969 - 1970**  
Special Counsel to Bess Meyerson, Commissioner of Consumer Affairs. [See above]

9. To the best of my recollection, these are the memberships responsive to your question: NAACP Legal Defense and Education Fund [Board Member and Secretary]; Human Rights Watch [Board Member]; Asia Watch/Human Rights Watch [Board Member and Vice Chair]; Women's Rights Project/Human Rights Watch [Board Member]; The Moriah Fund [Member of the Program Board]; Trinity Episcopal School Corp. [Board Member and Vice Chair]; Community Service Society of New York [Advisor to the Counsel's Office]; Center for the Study of Human Rights [Member of the Advisory Board]; The Ford Foundation [Member of the Board and Executive Committee]; The Mexican American Legal Defense and Education Fund [Board Member]; The Legal Aid Society of New York [Board Member]; New York Civil Liberties Union [Board Member]; Employment Law Project [Board Member]; General Member: Stephen Wise Free Synagogue; Metropolitan Museum of Art; Guggenheim Museum; Museum of Modern Art; Studio Museum of Harlem; Museum of the American Indian; American Museum of Natural History; Museum of Television & Radio; Jewish Museum; Whitney Museum of American Art; New York Botanical Garden; American Museum of the Moving Image; American Association of Retired Persons.

10. During the past ten years, I have held no memberships or offices in any political party or election committee nor have I rendered any services to any political party or election committee. I have made the following contributions: 1988 - DNC/Federal Account \$300; DNC/Federal Account \$300; 1989 - Committee for David

Dinkins \$250; Bill Bradley for US Senate \$250; Citizens Committee for Ravitch \$100; Elect Ronnie Eldridge \$100; Ravitch for Mayor \$200; Committee to Elect Liz Holtzman \$115; Bill Bradley for US Senate \$100; 1990 - Justice Preminger for Surrogate \$200; Preminger for Surrogate Campaign \$100; Bellamy for the 90s \$200; Friends of Elizabeth Holtzman \$250; 1991 Committee to Re-elect Ronnie Eldridge \$50; 1992 - Lynn Yeakel for US Senate \$100; DNC/Federal Account \$250; DNC/Federal Account \$300; DNC/Federal Account \$200. I am unable to locate records from which I could reconstruct the prior five years' history of contributions. I am able to assert that it would have been very much in the pattern reflected from 1988 - 1992.

11. In 1979, I received a Special Citation for Work in Discrimination Law at the annual awards dinner of New York Women in Communications, Inc. I am the designated honoree for the Columbia Law School Public Interest Law Foundation April, 1993 Public Service Award.
12. Cooper and Rabb, Equal Employment Law and Litigation, Published by the Equal Employment Opportunity Commission, 1973.  
  
Cooper, Rabb, and Rubin, Fair Employment Litigation, West Publishing Co, 1975.  
  
Agid, Cooper, Rabb, and Rubin, Fair Employment Law and Litigation Manual, 1975.  
  
Rabb and Rubin, Fair Employment Laws and New York State Division of Human Rights Procedures, 1977.  
  
Rabb, Raymond and Sussman, The I.N.S. and Outs of Immigration Law, (1981) [2nd Ed. with Guttentag].  
  
Rabb, et al., Promoting Integration in the New York City High Schools, 1987.  
  
Rabb, et al., Licensing Teachers for New York City: An Idea Whose Time Has Gone, 1988.
13. I gave the Trinity Episcopal High School graduation speech in June, 1991. The text of the speech is attached.
14. I have dedicated my career to public service and public interest lawyering both within and without the academy. My litigation skills have been honed over the past twenty-seven years in large class actions and small administrative trials. My management experience developed through my work in large litigations and with students, faculty and administrators including, most recently, my responsibility as Vice Dean of Columbia Law School, an institution with approximately 1000 students and approximately 120 faculty and administrative staff. I have changed substantive areas of focus over the two and one half decades of my career and am comfortable with entering and seeking to master new fields of law and areas of work.





United States

**Office of Government Ethics**

1201 New York Avenue, NW., Suite 500

Washington, DC 20005-3917

April 15, 1993

The Honorable Daniel P. Moynihan  
Chairman  
Committee on Finance  
United States Senate  
Washington, DC 20510-6200

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Ms. Harriet S. Rabb, who has been nominated by President Clinton for the position of General Counsel, Department of Health and Human Services.

We have reviewed the report and have also obtained advice from the Department of Health and Human Services (HHS) concerning any possible conflict in light of its functions and the nominee's proposed duties. Also enclosed is a letter from HHS' ethics official, dated April 14, 1993, which discusses Ms. Rabb's ethics agreements with respect to recusals, divestiture, and certain other matters.

Based thereon, we believe that Ms. Rabb is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

A handwritten signature in dark ink, appearing to read "Stephen D. Potts".

Stephen D. Potts  
Director

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## PREPARED STATEMENT OF BRUCE C. VLADECK

Mr. Chairman and Members of the Committee, my name is Bruce Vladeck. I am honored to appear before you today as President Clinton's nominee to be Administrator of the Health Care Financing Administration at the Department of Health and Human Services.

For more than a quarter of a century, Medicare and Medicaid have met the basic health care needs of our most vulnerable populations: the poor, the disabled, and the elderly. Today, one in four Americans are beneficiaries of these important programs. As a society, we should be proud of Medicare and Medicaid. They are two of the most important things this government does, and represent what the United States does best.

We need to maintain strong programs for our disadvantaged and elderly citizens. These beneficiaries must be the clear focus of our efforts. And, if I am confirmed by the Senate, my primary objective will be to serve them better. We want to understand, from the beneficiaries themselves, what we can do to make Medicare and Medicaid better programs for those who depend on them. We need to communicate better with our beneficiaries, the providers who serve them, and the States that are our partners in furnishing health care. We need also to listen to and work closely with people on the front lines of health care.

We also need to strengthen Medicare and Medicaid, to improve their systems and operations so that they can set the standard for a reformed health care system. We need to invigorate these programs by taking advantage of new technology to promote efficiency and eliminate cumbersome and costly administrative processes. We need to provide more positive incentives to encourage only the appropriate and effective provision of health care services. We need to encourage greater experimentation, both by States and providers, in new ways to deliver, manage, and pay for services. We need to prepare Medicare and Medicaid for the future era of health care reform; to update and simplify their operations and make them as "state-of-the-art" as possible.

We are now looking toward a new era in health care. Health care reform will require many changes, for which the Medicare and Medicaid programs can provide much of the essential infrastructure. The challenges we face in reforming the health care system require an agency that can balance our responsibilities and obligations to the many people the Health Care Financing Administration serves, while facing a changing environment in the health care community.

Mr. Chairman, if I am confirmed by the Senate, I pledge to bring to this effort the knowledge and perspectives I have gained in State, federal, and private health policy settings. It would be my distinct honor to work with Secretary Shalala to better serve our Medicare and Medicaid populations, and to help secure access to high quality health care for all our nation's citizens. In doing so, I especially look forward to working with you and the knowledgeable and creative Members of this Committee.

Thank you, Mr. Chairman. I would be pleased to answer any questions you may have.

PN263

## NOMINATION REFERENCE AND REPORT

AS IN EXECUTIVE SESSION,  
SENATE OF THE UNITED STATES,  
April 27, 1993.

Ordered, that the following nomination be referred to the Committee on Finance:

Bruce C. Vladeck, of New York, to be Administrator of the Health Care Financing Administration, vice Gail Roggin Wilensky.

, 1993.

Reported by Mr. \_\_\_\_\_ with the  
recommendation that the nomination be confirmed.

SENATE FINANCE COMMITTEE QUESTIONNAIRE

A. BIOGRAPHICAL:

1. Name: Bruce C. Vladeck
2. Address: 161 West 15th Street, Apt. 6G  
New York, N.Y. 10011
3. Birth: September 13, 1949  
New York, New York
4. Marital Status: Married to Fredda Wellin Vladeck  
August 5, 1973
5. Children: Elizabeth Charney Vladeck, age 16  
Stephen Isaiah Vladeck, age 13  
Abigail Sarah Vladeck, age 10
6. Education: Harvard College (1966-'70), B.A.  
(Government), magna cum laude,  
1970.  
The University of Michigan (1970-  
1973), M.A. (Political Science),  
1972, Ph.D. (Political Science),  
1973.
7. Employment: 1973-74: Associate Social Scien-  
tist, The New York City-Rand  
Institute, New York, N.Y.  
(conducted policy analysis on  
problems of urban government,  
including white-collar productiv-  
ity, police unionization, and  
health services).  
  
1974-79: Assistant to Associate  
Professor of Public Health  
(Health Administration) (In  
the Center for Community Health  
Systems), Columbia University,  
New York, New York, and (1977-  
'79), Associate Professor of  
Political Science. (Teaching and  
research in health care politics,  
health policy, and public policy  
analysis.)

1979-1982: Assistant Commissioner, Health Planning and Resources Development, New Jersey State Department of Health, Trenton, N.J. (Responsible for State Health Planning and Development Agency, promotion of alternative health systems, hospital and nursing home reimbursement programs.)

1982-83: Assistant Vice President, The Robert Wood Johnson Foundation, Princeton, N.J. (Senior program staff).

1983- : President, The United Hospital Fund of New York, New York, N.Y. (Chief executive of a federated charity involved in improving health care in New York City through research, information and convening services, grantmaking, volunteer services, and publications.)

8. Government  
Experience:

In addition to my service with the New Jersey State Department of Health:

1977-79: Member, Governor's Health Advisory Council, New York State

1978-Present: Member, New York State Council on Health Care Financing.

1978-1980: Consultant, Office of the Secretary, U.S. Department of Health and Human Services.

1984: Consultant, U.S. General Accounting Office.

1986-Present: Member, Prospective Payment Assessment Commission.

1986-1988; 1991-Present: Member, Board of Directors, New York City Health and Hospitals Corporation.

1986-1990: Member, New York State Council on Graduate Medical Education.

1987: Member, Mayor's Task Force on Medicaid Services and Cost Containment, New York, N.Y.

1987-89: Member, Mayor's Blue Ribbon Task Force on Child Health, New York, N.Y.

1988-89: Member, New York City AIDS Task Force.

1990-Present: Member, Mayor's Child Health Advisory Management Task Force.



1991-Present: Member, Governor's Health Care Advisory Board, New York State.

1991-Present: Member, New York State AIDS Advisory Council.

#### 9. Memberships:

Trustee, Kaiser Family Foundation.

Chairman, Board of Directors, Health Care for the Homeless.

National Academy of Social Insurance.

Chairman, National Advisory Committee, Pew Health Policy Fellows Program.

Board of Directors, Executive Committee, and Finance Committee, Greater New York Blood Center.

Board of Trustees, New York Academy of Medicine.

Board of Overseers, Graduate School of Public Administration, New York University.

Visiting Committee, Graduate School of Management and Urban Policy, New School for Social Research.

Editorial Board, Journal of Health Politics, Policy and Law; Inquiry.

Human Services Council of New York.

Board of Directors, Greater New York Hospital Association (ex officio).

International Advisory Committee, Brookdale-JDC Center on Health Policy, Jerusalem, Israel;

Society of Health Services Administrators.

Hospital Administrators' Club

American Public Health Association

The Village Temple  
(Congregation B'Nai Israel of Greenwich Village)

The Harvard Club of New York.

10. Political Activities: Numerous small campaign contributions.

11. Honors and Awards:

- 1970 Phi Beta Kappa, Alpha of Massachusetts.
- 1985 Membership, Institute of Medicine, National Academy of Sciences.
- 1986 Darrel J. Mase Distinguished Leadership Award, College of Health Related Professions, University of Florida.
- 1988 Distinguished Nonprofit Leadership Award, New School for Social Research.
- 1989 Homer Folks Award, State Communities Aid Association.
- 1990 Tekolste Scholar, Indiana Hospital Association.
- 1990 Award for Excellence, New York Association for Ambulatory Care.
- 1991 Centennial Award, Columbia University School of Nursing.

12. Published Writings:

Books:

Bruce C. Vladeck, Unloving Care: The Nursing Home Tragedy (New York: Basic Books), 1980.

Bruce C. Vladeck and Genrose Alfano, editors, Medicare and Extended Care: Issues, Problems, and Prospects (Baltimore: National Health Publishing), 1987.

J. David Seay and Bruce C. Vladeck, editors, In Sickness and In Health: The Mission of Voluntary Health Care Institutions (New York: McGraw-Hill), 1988.

Book Chapters:

Bruce C. Vladeck, "The Limits of Regulation: Implications of Alternative Models for the Health Sector," in Kenneth S. Friedman and Stuart H. Rakoff, editors, Towards A National Health Policy: Public Policy and the Control of Health Care Costs (D. C. Health, Lexington Books), 1977.

Bruce C. Vladeck and Willine Carr, "Health Policy," in Charles Brecher and Raymond F. Horton, editors, Setting Municipal Priorities, 1982 (New York: Basic Books), 1981.

Bruce C. Vladeck, "Nursing Homes: A National Problem," in Linda H. Aiken, editor, Nursing in the 1980s: Crises, Opportunities, Challenges (Philadelphia: Lippincott), 1982.

Bruce C. Vladeck, "Paying Hospitals," in Robert J. Blendon and Thomas Moloney, editors, New Approaches to the Medicaid Crisis (New York: Frost and Sullivan), 1982.

Bruce C. Vladeck, "Nursing Homes," in David Mechanic, editor, Handbook of Health, Health Care, and the Health Professions (New York: The Free Press), 1983.

Warren B. Nestler, Nancy Meyerowitz, and Bruce C. Vladeck, "Case-Mix Reimbursement and Clinical Management in New Jersey: The Overlook Experience," in Richard H. Egdahl and Diana Chapman Walsh, editors, Industry and Health Care, Vol. 2, Health Cost Management and Practice Patterns (Cambridge, MA: Ballinger), 1985.

Bruce C. Vladeck, "Financing Health Care for the Elderly in 2000: Issues, Mechanisms, and Directions," in Charles M. Gaitz, George Niederehe, and Nancy L. Wilson, editors, Aging 200: Our Health Care Destiny, Vol. 2, Psychosocial and Policy Issues (New York: Springer-Verlag), 1985.

Bruce C. Vladeck, "The Static Dynamics of Long-Term Care Policy," in Marion Ein Lewin, editor, The Health Policy Agenda: Some Critical Questions (Washington: American Enterprise Institute), 1985.

Bruce C. Vladeck, "American Perspective: If the War of 1812 Had Turned Out Differently, Would There Now Be PPOs in Manitoba or Global Budgeting in Vermont? Some Concluding Observations," in Robert G. Evans and Greg L. Stoddart, editors, Medicare at Maturity: Achievements, Lessons and Challenges (Calgary, Alberta: University of Calgary Press), 1986.

Bruce C. Vladeck and David A. Gould, "Caring for New York's Frail Elderly: The Policy Challenge," in Aaron Rosenblatt and Warren F. Ilchman, editors, Coping and Caring: New York in the Era of Deinstitutionalization (Albany, NY: Nelson A. Rockefeller Institute of Government), February 1987.

Bruce C. Vladeck, "The Changing Health Care Financing and Delivery Systems," in Building Affordable Long Term Care Alternatives: Integrating State Policy (Washington: National Governors' Association), April 1987.

Bruce C. Vladeck, "The Continuum of Care: Principles and Metaphors," in Connie J. Evashwick and Lawrence J. Weiss, editors, Managing the Continuum of Care (Rockville, MD: Aspen Publishers), 1987.

Bruce C. Vladeck, "The Meaning of the Swing-Bed Experience," in Joshua M. Wiener, editor, Swing Beds:

Assessing Flexible Health Care in Rural Communities (Washington: Brookings Institution), 1987.

Bruce C. Vladeck, "Decision-Making in Long-Term Health Planning," in Ruth E. Dunkle and May L. Wykle, editors, Decision-Making in Long-Term Care: Factors in Planning (New York: Springer), 1988.

Bruce C. Vladeck, "Hospitals, The Elderly, and Comprehensive Care," in Carl Eisdorfer and George L. Maddox, editors, The Role of Hospitals in Geriatric Care (New York: Springer), 1988.

Bruce C. Vladeck, "The Practical Differences in Managing Nonprofits: A Practitioner's Perspective," in Michael O'Neill and Dennis R. Young, editors, Educating Managers of Nonprofit Organizations (New York: Praeger), 1988.

Bruce C. Vladeck, "What Needs to Be Done on the Voluntary Hospital Front," in David E. Rogers and Eli Ginzberg, editors, The AIDS Patient: An Action Agenda (Boulder, CO: Westview Press), 1988.

Bruce C. Vladeck, "Home and Community Care of the Elderly: Research and Policy Issues," in Jerimiah A. Baroness, David E. Rogers, and Kathlee N. Lohr, editors, Care of the Elderly Patient: Policy Issues and Research Opportunities (Washington: National Academy Press), 1989.

Bruce C. Vladeck, "The Economics of a Caring Approach," in David E. Rogers and Eli Ginsberg, editors, Public and Professional Attitudes Toward AIDS Patients: A National Dilemma (Boulder, CO: Westview Press), 1989.

Iris C. Freeman and Bruce C. Vladeck, "The Nursing Home Conundrum," in Carl Eisdorfer, David A. Kessler, and Abby N. Spector, editors, Caring for the Elderly: Reshaping Health Policy (Baltimore: Johns Hopkins University Press), 1989.

Bruce C. Vladeck, "Introduction" and "A History of the New York Prospective Hospital Reimbursement Methodology" in Health Care Financing in New York State: A Blueprint for Change (New York: United Hospital Fund), 1993.

#### Articles:

Bruce C. Vladeck, "On the Concept of Derivative Needs," The New York City Rand Institute Report Number P-5245, June 1974.

Bruce C. Vladeck and R. J. Weiss, "Policy Alternatives for Alcohol Control," editorial, American Journal of Public Health, December 1975.

Robert K. Yin, Karen A. Heald, Mary E. Vogel, Patricia D. Fleischauer, and Bruce C. Vladeck, "A Review of Case Studies of Technological Innovations in State and Local Services," National Science Foundation Report Number NSF/PRA-75-19-1, February 1976.

Bruce C. Vladeck, "On Cutting the Cost of Medical Insurance," Policy Analyst, Summer 1976.

Bruce C. Vladeck, "Why Non-Profits Go Broke," The Public Interest, Winter 1976. Reprinted in The Grantsmanship Center News, May-July 1976, Journal of Medical Economics, January 10, 1977, Management of Public Sector and Non-Profit Organizations, Curtis J. Tompkins and L. E. Grayson, editors, (Holden-Gray, Inc.), 1978.



Bruce C. Vladeck, "Interest-Group Representation and the HSAs: Health Planning and Political Theory," American Journal of Public Health, January 1977.

George D. Greenberg, Jeffrey A. Miller, Lawrence B. Mohr, and Bruce C. Vladeck, "Developing Public Policy Theory: Perspectives from Empirical Research," The American Political Science Review, December 1977.

Allen S. Ginsberg, Susan D. Cohen, and Bruce C. Vladeck, "Impact of National Economic Conditions on Health Care of the Poor," NTIS Report PB-271 960/7, June 1977.

Susan D. Cohen, Allen S. Ginsberg, and Bruce C. Vladeck, "The Effects of Unemployment and Inflation on Hospital-Based Ambulatory Care," American Journal of Public Health, December 1978.

Bruce C. Vladeck, "Buildings and Budgets: The Overinvestment Crisis," Change, December 1978/January 1979.

Bruce C. Vladeck, "Health Planning - Representation and Its Discontents," editorial, American Journal of Public Health, April 1979.

Bruce C. Vladeck, "Hospital Cost Containment: New Jersey's Rate Regulation System," Health Law Project Library Bulletin, August 1979.

Bruce C. Vladeck, "The Design of Failure: Health Policy and the Structure of Federalism," Journal of Health Politics, Policy, and Law, Fall 1979.

Bruce C. Vladeck, "F. D. A. Regulation of Medical Devices: Regulation and Innovation," Man and Medicine, 1979.

Bruce C. Vladeck, "The Politics of Cost Containment and Resource Allocation: Experiences in Health Planning and Resource Development," Bulletin of the New York Academy of Medicine, January/February 1980.

Bruce C. Vladeck, "Caring for the Old," The New York Times, Op-Ed, May 19, 1980.

Bruce C. Vladeck, "The New Jersey System," NTIS Accession Number PB82-163569, September 18, 1980.

Bruce C. Vladeck, "The Market vs. Regulation: The Case for Regulation," Milbank Memorial Fund Quarterly, Spring 1981.

Bruce C. Vladeck, "Equity, Access, and the Costs of Health Services," Medical Care, Supplement, December 1981.

Bruce C. Vladeck, "Understanding Long-Term Care," New England Journal of Medicine, September 30, 1982.

Bruce C. Vladeck, "Beliefs vs. Behaviors in Healthcare Decision Making," editorial, American Journal of Public Health, January 1983.

Bruce C. Vladeck and James P. Firman, "The Aging of the Population and Health Services," The Annals of the American Academy of Political and Social Sciences, July 1983.

Bruce C. Vladeck, "Two Steps Forward, One Back: The Changing Agenda of Long-Term Care Reform," The Pride Institute Journal of Long-Term Home Health Care, Summer 1983.

Bruce C. Vladeck, "The Role of State and Local Government in Health: Sun Valley Forum on National Health," Health Affairs, Winter 1983.

Bruce C. Vladeck, "Restructuring the Financing of Health Care: More Stringent Regulation of Utilization," Bulletin of the New York Academy of Medicine, January/February 1984.

Bruce C. Vladeck, "Comment on 'Hospital Payment Under Medicare,'" Proceedings of the Conference on the Future of Medicare, Subcommittee on Health, Committee on Ways and Means, U. S. Congress, February 1, 1984; also in Milbank Memorial Fund Quarterly, Spring 1984.

Bruce C. Vladeck, "Medicare Hospital Payment by Diagnosis-Related Groups," Annals of Internal Medicine, April 1984.

Bruce C. Vladeck, "Variations Data and the Regulatory Rationale," Health Affairs, Summer 1984.

Bruce C. Vladeck, "The Limits of Cost-Effectiveness," editorial, American Journal of Public Health, July 1984.

Bruce C. Vladeck, "Financing Health Care: Myth and Ideology in Cost Containment," New York Affairs, 1984.

Bruce C. Vladeck, "The Dilemma Between Competition and Community Service," Inquiry, Summer 1985.

Bruce C. Vladeck, "How Much Indigent Care Should Hospitals Provide?" Health Management Quarterly, Summer 1985.

Bruce C. Vladeck, "The Andrew Pattullo Lecture: Health Administration and the Crisis in Health Care," The Journal of Health Administration Education, Fall 1985.

Bruce C. Vladeck, "Reforming Medicare Provider Payment," Journal of Health Politics, Policy, and Law, Fall 1985.

Bruce C. Vladeck, "PPS and Quality Care: Can They Coexist?" Healthspan, January 1986.

Bruce C. Vladeck, "Diagnosis Related Group-Based Hospital Payment: The Real Issues," Bulletin of the New York Academy of Medicine, January/February 1986

Bruce C. Vladeck, "Federal Inaction on Long-Term Care to Hurt PPS," Hospitals, March 20, 1986.

Bruce C. Vladeck, "America's Hospitals: What's Right and What Could Be Better," Health Affairs, Summer 1986.

J. David Seay, Bruce C. Vladeck, Paula S. Kramer, David A. Gould, and James J. McCormack, "Holding Fast to the Good: The Future of the Voluntary Hospital," Inquiry, Fall 1986.

Bruce C. Vladeck, "Health, Health Care Executives, and Their Communities: The Gintzig Memorial Lecture," Hospitals and Health Services Administration, September/October 1986.

Bruce C. Vladeck, "'Medical Gridlock' and Mental Health Care," Hospitals, March 20, 1988.

Bruce C. Vladeck, Emily J. Goodwin, Lois P. Myers, and Madeline Sinisi, "Consumers and Hospitals: The HCFA 'Death List,'" Health Affairs, Spring 1988.

Bruce C. Vladeck, "Quality Assurance through External Controls," Inquiry, Spring 1988.

Bruce C. Vladeck, "Hospital Prospective Payment and the Quality of Care," editorial, New England Journal of Medicine, November 24, 1988.

Bruce C. Vladeck and Paula S. Kramer, "Case Mix Measures: DRGs and Alternatives," Annual Review of Public Health, 1988.

Bruce C. Vladeck, "Long-Term Care for the Elderly: The Future of Nursing Homes," The Western Journal of Medicine, February 1989.

Bruce C. Vladeck, "The Complexities and Perplexities of Cost Containment," editorial, American Journal of Public Health, November 1989.

Bruce C. Vladeck, "Hospitals and the Public Purse," Transactions and Studies of the College of Physicians of Philadelphia, June 1990.

Bruce C. Vladeck and D. J. Rothman, "Special Section on the Future of the Hospital: Introduction," Transactions and Studies of the College of Physicians of Philadelphia, June 1990.

Bruce C. Vladeck, "Health Care and the Homeless: A Political Parable for Our Time," Journal of Health Politics, Policy, and Law, Summer 1990.

Bruce C. Vladeck, "Interaction of Housing and Health Care Institutions," Bulletin of the New York Academy of Medicine, September/October 1990.

Lois P. Meyers, Kimberley S. Fox, and Bruce C. Vladeck, "Health Services Research in a Quick and Dirty World: The New York City Hospital Occupancy Crisis," Health Services Research, December 1990.

Bruce C. Vladeck, "Primary Care: The Urban Hospital's Role," Henry Ford Hospital Medical Journal, 1990.

Bruce C. Vladeck, "Medicare's Prospective Payment System at Age Eight: Mature Success or Midlife Crisis," University of Puget Sound Law Review, Spring 1991.

Bruce C. Vladeck, "Where Do We Go from Here?" Bulletin of the New York Academy of Medicine, July/August 1991.

Bruce C. Vladeck, "Unhealthy Rations," The American Prospect, Summer 1991.

Bruce C. Vladeck, "A Classic Clash of Political Values," The New York Times, Op-Ed, February 4, 1992.

Bruce C. Vladeck, "Health Care Leadership in the Public Interest," Frontiers of Health Services Management, Spring 1992.

David A. Gould, Kathryn D. Haslanger, and Bruce C. Vladeck, "Coming of Age: Home Care in the 1990s," Pride Institute Journal of Long Term Home Health Care, Winter 1992.

President's Letters (United Hospital Fund):

Bruce C. Vladeck, "United Hospital Fund: A Renewed Mission," October 1983.

Bruce C. Vladeck, "NYPHRM: The Golden Years," December 1983.

Bruce C. Vladeck, "Health and Health Care in New York City: How Are We Doing?" February 1984.

Bruce C. Vladeck, "Visits and Deficits: Importance of Ambulatory Care," April 1984.

Bruce C. Vladeck, "Extended Care: The Alternative 'Alternative'," June 1984.

Bruce C. Vladeck, "Unrestricted Philanthropy: The Continuing Imperative," October 1984.

Bruce C. Vladeck, "Caring for the Elderly: Learning to Do Better," December 1984.

Bruce C. Vladeck, "The Donut and the Hole: Health Expenditures in New York City," February 1985.

Bruce C. Vladeck, "The Poor Use More: Hospitals and Communities in New York City," May 1985.

Bruce C. Vladeck, "For-Profit Hospital Chains in New York: Who Profits?" October 1985.

Bruce C. Vladeck, "DRGs and Quality of Care: Facts and Fantasy," December 1985.

Bruce C. Vladeck, "The AIDS Crisis: Implications for Public Policy," February 1986.

Bruce C. Vladeck, "Sharpening the Focus on the Quality of Care 'Crisis'," June 1986.

Bruce C. Vladeck, "The Future of Voluntary Hospitals," October 1986.

Bruce C. Vladeck, "The End of Health Insurance," December 1986.

Bruce C. Vladeck, "No Place Like Home," February 1987.

Bruce C. Vladeck, "Capital Issues, Capital Punishment," May 1987.



Bruce C. Vladeck, "Back to the Future," December 1987.

Bruce C. Vladeck, "Social Morbidity and the Transformation of New York's Hospital System," July 1988.

Bruce C. Vladeck, "Body Counts," November 1988.

Bruce C. Vladeck, "Treating the Symptoms," February 1989.

Bruce C. Vladeck, "The Empire Slides Back: New York's Role in Human Services," October 1989.

Bruce C. Vladeck, "Kid Stuff," December 1989.

Bruce C. Vladeck, "Worst Case Scenarios," February 1990.

Bruce C. Vladeck, "Simple, Elegant, and Wrong," September 1990.

Bruce C. Vladeck, "Them and Us," December 1990.

Bruce C. Vladeck, "Taxing Logic," April 1991.

Bruce C. Vladeck, "Paradigm Lost: Health Policy in New York State in the Post-Axelrod Era," September 1991.

Bruce C. Vladeck, "Old Snake Oil in New Bottles," September 1992.

13. Speeches: I do not ordinarily speak from a prepared text. In the last three years I have given the following speeches:

#### 1990

January 23: Speech for Montefiore Symposium on AIDS; Montefiore Medical Center, Bronx, New York.

January 26: Speech for 31st Joseph A. Levy Annual Institute; Healthcare Financial Management Association, LaGuardia Marriott, New York, New York.

January 28-31: Speech on hospital tax exemption at Annual Membership Meeting; American Hospital Association, Washington, D.C.

February 6-7: Speech to institute on gerontology and long-term care; Sisters of St. Joseph Health System, Ann Arbor, Michigan.

February 24: Speech on health care costs at centennial celebration of the Johns Hopkins Hospital, Baltimore, Md.

March 2: Speech to board retreat, Overlook Hospital, Summit, N.J.

March 13: Speech at conference, Veterans Administration Health Services Research program, Northport, N.Y.

March 17: Speech at conference organized by American College of Healthcare Executives, Orlando Florida, on "The Community Service Challenge".

March 19: Speech at conference of Sisters of Providence Health Care System, Seattle, Washington, in Tucson, Arizona, on the hospital's role in geriatrics and long-term care.

March 27: Speech on future of health care system in New York State; The New School, New York, New York.

April 5: Speech on redefinition of AIDS & relation to pattern of HIV-related illness and resource utilization in New York and New Jersey; National Leadership Coalition for Health Care Reform, Washington, D.C.

April 16: Speech on financing access to health care; National Leadership Coalition for Health Care Reform, Washington, D.C.

April 16: Commentator on the Richard and Hinda Rosenthal Lecture series, on speech by Dr. Robert Heyssel on the future of academic medical centers; Institute of Medicine, Washington, D.C.

April 21: Speech on strategic planning at Board retreat; St. Luke's/Roosevelt Hospital Center, New York, New York.

April 25: Speech at health forum; General Accounting Office, Washington, D.C.

April 27: Speech on competition v. cooperation to Northeast Canadian/American Health Council, Danvers, Mass.

May 8: Speech on Medicare: A Strategy for Quality Assurance for Institute of Medicine, Washington, D.C.

May 15: Speech on Systems of Health Care; Cornell Medical Center, New York, New York.

May 16: Speech for the Annual Board Meeting at Visiting Nurses Service of New York, New York.

May 19: Speech on Medical Ethics and Rationing of Health Care at Mt. Sinai Medical Center Alumni Council, New York, New York.

May 25: Speech on maternal substance abuse at the Medical & Health Research Association, New York, N.Y.

September 17: Speech on Medicare payment for hospital capital expenses, National Electrical Manufacturers Association; Napa, California.

May 30: Speech on linking emergency rooms and the elderly with community services at the New York City Department of Aging, New York, New York.

June 4: Speech to interdisciplinary faculty seminar on health care costs at the CUNY Graduate School, New York, New York.

June 14: Speech on future of eye care delivery; Catholic Medical Center, Elmhurst, New York.

June 19: Speech on "Back to the Future: New Opportunities in Internal Medicine," at Booth Memorial Medical Center, Flushing, New York.

June 20: Speech on patient autonomy in health care; National Council on Death and Dying, New York, New York.

June 26: Speech on environmental trends in health and human services at the Alliance for Catholic Health & Human Services, Yonkers, NY.

September 6: Speech to Colorado Hospital Association Meeting, Keystone, Colorado, on "Cooperation and Community Service for the '90s."

September 13: Speech on creating the federal role in medicine at the Health Services Improvement Fund, New York, New York.

October 3: Speech on public policy and health care financing at Beth Israel Medical Center, New York, New York.

October 4: Speech on "Quality and Access to Affordable Care," meeting sponsored by American College of Healthcare Executives, Washington, D.C.

October 18: Speech to board retreat, INOVA Health Care Systems, Williamsburg, Va., on "Mission Matters."

October 18-19: Speech on New York's hospital system at New York Community Trust, New York, New York.

October 31: Speech on health care for elderly in New York State in the 90's; State Society on Aging of New York, Albany, New York.

November 2: Speech on New York City's health care system; New York Community Trust, New York, New York.

November 6: Speech on the health of health care in America; Memorial Sloan-Kettering Cancer Center, New York, New York.

November 8: Speech on health care issues in New York City; New York City Partnership, New York, New York.

November 13: Speech on hospital-based primary care; Health Strategy Network, Philadelphia, Pa.

## 1991

January 9: Speech on hospital and physician productivity to meeting of American Healthcare Systems, Phoenix, Arizona.

January 22: Speech to health system reform task force, Merck, Sharpe & Dohme, Princeton, N.J.

January 22: Speech for Health Law Committee Meeting at New York State Bar Association, New York, New York.

January 24: Speech at HIV/AIDS & Aging Conference; Brookdale Center on Aging, New York, New York.

January 24: Speech on public health needs; New Jersey State Department of Health, Trenton, New Jersey.

February 7: Speech on "the changing rules of the hospital game," to New England Healthcare Assembly, Cambridge, Mass.

February 11: Speech on "Health Policy Issues in the '90s," Rush-Presbyterian St. Luke's Medical Center, Chicago, Illinois.

February 20: Speech on the future of New York State's health care system, SUNY-Albany.

March 7: Speech on the impact of HIV on resource utilization in New York and New Jersey; Citizens Commission on AIDS, New York, New York.

March 13: Speech at financing and reimbursement seminar; National Association of Public Hospitals, New York, New York.

March 14-15: Speech on view of health politics and policy; National Academy for State Health Policy, Washington, D.C.

March 19: Speech on "health care finance in an era of fiscal crisis," St. Louis University Medical Center, St. Louis, Missouri.

April 9: Speech on Medical education and community service; Cornell University Medical College, New York, New York.

April 10: Speech on the future of Medicare, Widener University, Chester, Pa.

April 16: Speech on New York State long-term care system; New York Medical College, Valhalla, New York.

April 19-21: Discussant on health care costs and access issues; Committee on Ways and Means Issues Seminar, West Point, New York.

May 6: Speech on Medicare capital payment policy; at National Health Policy Forum, Washington, D.C.

May 13: Speech on the future of health care; conference of International Association of Benefit Funds, Scottsdale, Arizona, sponsored by the Blue Cross-Blue Shield Association, Chicago, Ill.

July 27: Speech on the role of philanthropy in the health care system, Montgomery-Dorsey Forum, Vail, Colorado, sponsored by P-SL Foundation, Denver, Colorado.

May 16: Speech on Medicaid cost containment; Visiting Nurse/Home Care Council, New York, New York.

May 17: Speech on issues in state finance - health facilities; Columbia University and William E. Simon & Sons Municipal Securities, New York, New York.

May 30: Speech on trends in health status and use of health services: Medical and Health Research Association, New York, New York.



June 11: Speech on evolution of hospital services and changes in regulatory approaches; New York State Department of Health, New York, New York.

June 30: Speech on implications of PPS for policy, management and clinical practice; AHSR/FHSR, San Diego, California.

September 6: Speech on graduate medical education and primary care needs, at Council on Graduate Medical Education Health and Human Services, Rockville, Maryland.

September 6: Speech on opportunities for change: New Jersey and the nation; New Jersey State Department of Health, Princeton, New Jersey.

September 17: Speech on the health care institution's role in the community, California Association of Catholic Hospitals, Long Beach, California.

September 19: Speech on universal health care; New York Catholic Healthcare Council, White Plains, New York.

September 24: Speech to board retreat of Middlesex Hospital, Middletown, Connecticut, on access to health care.

October 8: Speech on hospital competition and regulation; New York State Council on Health Care Financing, Albany, New York.

October 11: Speech on "Filling the Health Policy Void," Illinois Hospital Association, Springfield, Ill.

October 21: The Herbert Lourie Lecture, Syracuse University, Syracuse, N.Y.

November 23: Speech on health care crisis; New York State Assembly-Democratic Study Group, Kiamesha Lake, New York.

## 1992

February 6: Speech on trends in health care technology; Hospital League/Local 1199, Rye Brook, New York.

February 7: Speech on "Mission Possible: Patient Service," to Healthcare Executives of Northern California, Oakland, California.

February 10: Speech on managed care; Buffalo State College, White Plains, New York.

February 28: Speech on New York City health system; Contributions Advisory Group, New York, New York.

March 3-4: Three speeches on the future of Medicaid and leadership in health care at Congress of American College of Healthcare Executives, Chicago, Ill.

March 5: Speech on health care reform at University of Kansas, Lawrence, Kansas.

March 17: Speech on the future of hospitals at the Robert Wood Johnson Foundation, Princeton, New Jersey.

March 23: Speech on the future of health care delivery system at the New York Downtown Hospital, New York.

March 26: Speech on health financing; New York Business Group on Health, New York, New York.

April 16: Speech at retreat on health service reform; Brooklyn Hospital Center, Brooklyn, New York.

April 23: Speech on health care in the 1992 elections, Iowa Hospital Association, Des Moines, Iowa.

April 29: Speech on health care reform; Wagner College, Staten Island, New York.

May 4: Speech on managed care; National Association of Social Workers, New York, New York.

May 6: Speech on saving the American hospital to meeting of Ohio Hospital Association, Cleveland, Ohio.

May 11: Speech on politics of aging; National Council on Aging, Washington, D.C.

June 1: Speech on privatization for the New York City Human Resources Administration, New York, New York.

June 5: Speech on health care opportunities for the 21st century; New York University, New York.

June 8-9: Speech on effectiveness of DRG's and PPS; AHSR/FHSR, Chicago, Illinois.

October 1-2: Two speeches, on future of graduate medical education financing and health care reform, University of Wisconsin, Madison, Wisconsin.

October 15-16: Speech on beyond "Paradigm Lost" for Hospital Association of New York State, Lake George, New York.

November 6: Speech on the future of hospitals; Ingham Medical Center, Lansing, Michigan.

November 12: Speech on fiscal and policy environment; Sisters of Charity, Staten Island, New York.

November 13: Speech on health care costs; Mt. Sinai Medical Center, New York, New York.

November 15-20: Speech on health policy research at Brookdale Institute, Jerusalem, Israel.

December 2: Speech on national health care; North Shore University, Hospital, Manhasset, New York.

### 1993

January 7-8: Discussant at conference on competition in the health care system, sponsored by the Robert Wood Johnson Foundation, administered by the Alpha Center, Washington, D.C.

January 21: Speech on managed competition at Montefiore Medical Center, Bronx, New York.

February 1: Speech on health care reform, Medstat Systems, Inc, (Ann Arbor, Michigan) client conference, Longboat Key, Florida.

February 4: Speech on managed competition at Beth Israel North, New York, New York.

February 8: Speech on health care solutions; Columbia University - Schools of Public Health and Journalism, New York, New York.

March 2: Speech on new era in health care policy; American College of Healthcare Executives, Chicago, Illinois.

14. Qualifications: I have long been actively involved, in a number of ways, in many of the issues with which the Health Care Financing Administration is concerned. I have particular expertise in the Medicare Prospective Payment System, long-term care issues, AIDS, and the operation of state Medicaid programs.



United States  
**Office of Government Ethics**  
1201 New York Avenue, NW., Suite 500  
Washington, DC 20005-3917

May 3, 1993

The Honorable Daniel P. Moynihan  
Chairman  
Committee on Finance  
United States Senate  
Washington, DC 20510-6200

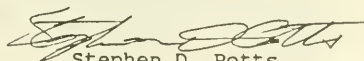
Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Bruce C. Vladeck, who has been nominated by President Clinton to serve as the Administrator of the Health Care Financing Administration.

We have reviewed the report and have also obtained advice from the Department of Health and Human Services concerning any possible conflict in light of its functions and the nominee's proposed duties. In addition to the report, please find enclosed a copy of an April 30, 1993, letter from the Department's ethics official which describes the actions Mr. Vladeck has agreed to take with regard to this position.

Based thereon, we believe that Mr. Vladeck is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

  
Stephen D. Potts  
Director

## RESPONSES OF MR. VLADECK TO QUESTIONS SUBMITTED BY SENATOR PACKWOOD

1. Do you believe that the nursing home reform provisions of OBRA 87 have changed the conditions that you described in your book, Unloving Care?

A: I believe that conditions in nursing homes have greatly changed as a result of OBRA 87. Significant progress has occurred since the Institute of Medicine Report on "Improving the Quality of Care in Nursing Homes" and OBRA 87. Examples of improvements include:

- o Reductions in restraint use--In 1988, more than 40% of residents were subject to physical restraints, in 1992, this number has been reduced to 21%. I recognize that there is room for improvement and efforts are underway to continue reducing the number of cases using physical restraints.
- o Reductions in antipsychotic drug misuse--Various studies indicate that misuse is down and resident functional status up. The average reduction in improper use is approximately 21 percent.
- o Implementation of standardized resident assessment--Long term care facilities are now required to conduct standardized, comprehensive, accurate and reproducible assessments of each resident's functional capacity upon admission to a facility. HCFA developed a model Resident Assessment Instrument. HCFA requires States to include a minimum number of elements (referred to as the Minimum Data Set) from the model in their own resident assessments. The model assessment has been wholly adopted by 35 States. 15 States have improved upon the HCFA model but still have the core Minimum Data Set.

Currently, 23 States have or are planning a resident assessment database to assist in quality monitoring. In addition, 19 States provide some form of financial assistance to nursing homes for computerization. As the technology is adopted by more States, better use of data will help improve the monitoring of nursing homes and their care for each nursing home resident.

- o Training for nurse aides--Regulations implementing statutory requirements for the training of nurse aides were final on April 1, 1992, and at least 150,000 nurse aides have been already been trained during the past 4 years. These requirements will help promote quality care for nursing home residents.

We will continue to bring about improvement in the quality of care and life in nursing homes through the coordinated efforts of federal and state survey and certification programs.

2. In your book, you acknowledged that quality in nursing home care is difficult to determine. Have the provisions of OBRA 87 improved HCFA's ability to determine quality? What plans do you have as HCFA administrator to improve quality of nursing home care and its measurement.

A: The implementation of OBRA 87 has changed the focus of quality assurance from a paper review of the facility's capacity to provide care, to a resident-centered, outcome-oriented review that looks at actual care provided to the resident and the quality of that resident's life.



With the implementation of standardized resident assessment systems and the wealth of data available, we are able to more closely track how the facility provides care to its residents.

Looking ahead, HCFA has clear goals and objectives. First, we intend to improve and computerize the Minimum Data Set, which is the required set of elements that must be included in all resident assessments. By improving the Data Set, we will be able to better analyze and assess the data provided in order to more accurately target the types of services needed. An important aspect of this effort will be producing automated outcomes-oriented data. We have started experimenting with a system that will permit the field surveyor to input data into a notebook computer which will transmit the data to a master computer via modem for analysis and comparison. This pilot project is part of our move toward computerization of survey findings and other key data. States that are utilizing computerized systems for long term care include Kansas, Maine, South Dakota and Washington (biggest and most advanced of all states). We are taking action to expand this pilot project to other states in order to enhance resident assessments and outcome measures.

We are also continuing to refine the survey process to better focus and allocate surveyor resources. Increased emphasis will be placed on ensuring the education and training of nursing home staff (specifically nurse aides), since they are critical to maintaining and improving the quality of life, quality of care, and other key aspects of the resident environment.

3. In your book, you note the need to balance cost control, Medicaid access, and provider participation. Do you believe the current system has achieved that balance? If not, what remedies do you see? Absent adequate Medicaid payments, should nursing facilities be allowed to maintain a mix of payor sources to offset inadequate Medicaid payments?

A: I think a natural tension always exists around keeping these factors in balance. As States make their budgeting decisions concerning payments to nursing facilities, they not only have to be mindful of the Federal requirements, but they also have to wrestle with the trade-offs between their budgetary constraints and keeping payment rates sufficient to maintain adequate access. This tension is healthy, and I see no need to make major changes to the Federal law governing Medicaid payments to nursing facilities.

4. Please describe your current thinking on the issue of regulating nursing facilities as utilities.

A: The free market provides the best source of guaranteeing high quality services for most products including nursing home care. If the nursing home industry were treated like a utility it would certainly increase access to care because every individual would be entitled to these long term care services. However, the cost for providing extensive 24 hour nursing care would be prohibitive and difficult to accomplish in this era of fiscal restraint.

We must also realize that if we treat nursing homes as a utility, many State options and choices would not be attempted because there is no incentive to improve long term care services if the price is set. The end result would be higher prices for long term care services.

This Administration strongly encourages States to undertake additional responsibilities and exercise new options in providing long term care to its residents and incentives are apparent in our market economy to provide good quality services at a fair price.

5. In your book, you alluded to the potential for competitive bidding for nursing facility services. Do you still see potential in that area? if so, what plans do you have as HCFA Administrator to pursue this potential?

A: We will continue to explore new options to provide better quality care at a good value. With new service configurations being tested and explored, new payment methods that respond to the differences in the services being purchased must be developed. I assure you that all options are open to improve upon the status of quality care in nursing facilities.

## RESPONSES OF MR. VLADECK TO QUESTIONS SUBMITTED BY SENATOR HATCH

### QUESTION 1

Dr. Vladeck, your credentials are extremely impressive and I am sure you will be a great asset to HCFA, HHS and the Administration. I have only a few questions.

The job of HCFA Administrator is a complicated one, in which you will need to balance the heavy management needs of running a tremendous "kingdom" embracing a large insurance agency, a policy think-tank, and a regulatory body, among other functions. How do you view the role of HCFA Administrator, especially in relationship to the duties of the Deputy.

### ANSWER

- ▶ I believe that good policy and good management are indistinguishable. As Administrator, I will be involved in all the functions of HCFA. The Deputy Administrator would, of course, be a key member of the senior management team. I believe in a collegial approach and would work closely with HCFA senior staff on all issues. I have great confidence in the civil service and in the quality and professionalism of HCFA staff.

### QUESTION 2

In your deliberations on health care reform, I am certain you have been approached, as have I, by practitioners such as optometrists, or nurse midwives, who believe they can extend access to quality health care services at a price lower than that charged by physicians.

--What role do you see for these practitioners in our evolving health care delivery system?

--How should Medicare and Medicaid reimburse these professionals? Is there a need to encourage their use more in government programs?

--What do you think of the American Association of Nurse Anesthetists' proposal that HCFA should restrict institutions that receive federal funding from "discriminating" against CRNAs as a class of providers in awarding of clinical privileges?

## ANSWER

- ▶ Allied health professionals certainly are playing an important and growing role in providing primary health care services in both government programs and in the private health care community. These professionals, like all health care professionals, make their greatest contribution when they are part of a team providing a continuum of care. As we move toward increasing the delivery of care through integrated networks, these professionals will play an increasingly important role.
- ▶ Medicare and Medicaid currently pay for nurse practitioners and midwives, physician assistants, clinical psychologists, clinical social workers, physician assistants and other health care professionals in a variety of ways, including payment to facilities or providers for their services and direct payment through fee schedules. Future payments methods for these professionals will depend on the result of the national debate on health care reform.
- ▶ Generally, HCFA does not prescribe that hospitals grant privileges to specific types of medical practitioners; instead HCFA requires that hospitals have medical staff bylaws that address clinical privileges. HCFA requires that hospitals have sufficient clinical staff, licensed by the applicable laws of the State, to provide necessary inpatient care. I believe that HCFA should not micro-manage how a hospital staffs itself to meet these requirements.

## QUESTION 3

As you know, Congress is currently considering the Administration's childhood immunization proposal. The State of Utah has suggested that information required to be kept by States as part of the EPSDT program should be used as the basis for tracking immunizations. What do you think of this idea?

## ANSWER

- ▶ The EPSDT tracking system is still relatively new. In fact, HCFA is currently revising the EPSDT reporting requirements to address problems with State data systems that are resulting in inaccurate counting of EPSDT recipients and services. The current EPSDT tracking system does not specifically track the immunization status of all EPSDT recipients. Expanding EPSDT reporting requirements to encompass a Statewide immunization tracking system would place a significant additional burden on the EPSDT tracking system. Since the current system is undergoing revisions, we would want to give serious thought to this idea before pursuing it further.
- ▶ The State immunization information system that would be established under the Administration's proposal would help States follow the immunization of all children, and would help States increase their immunization rates.

## QUESTION 4

Many in Utah have suggested that the State has not received its fair share of Medicare and Medicaid payments relative to other neighboring States. Could you comment on this?

## ANSWER

- ▶ It seems to me that the more important issue is whether high quality Medicare and Medicaid services are available to eligible patients in Utah to the same extent they are in neighboring States. In fact, from what I know, the health care system in Utah is generally excellent.
- ▶ As I remarked during the confirmation hearing, there are valid reasons for some differences in payment levels, such as geographical variations in input costs. Medicare payment rates are adjusted to account for these differences. In addition, many provisions are included in the Medicare law to protect rural health care practitioners and providers.
- ▶ Federal Medicaid payment levels are determined by a statutory formula that is applied to all States, based on States' per capita incomes. I would note that agreement reached during the recently concluded negotiations between the Administration and the National Governors' Association will permit Utah and 31 other States to increase payments to disproportionate share hospitals.

## QUESTION 5

Will you give us your assurance that you will be accessible to Members of Congress and their staffs who might have issues of interest or concern that they wish to bring to your attention or that of the Secretary?

## ANSWER

- ▶ I am fully committed to working closely with Congress as we move toward a new era in health care. I agree entirely with your remark at the confirmation hearing that a bipartisan partnership between Congress and the Administration is necessary for us to succeed in meeting the health care challenges that we face. I pledge my full participation in that partnership.

## QUESTION 6

You have contributed greatly to the literature on health care, including long-term care. One of the most important aspects of the nursing home quality legislation enacted in 1987, the enforcement component, is still on the drawing board. I know that assessment and measurement of compliance with the law isn't consistent region-to-region or State-to-State. Since you will have the responsibility for finalizing the regulation, if confirmed, I'd like some insight into how you plan to solve the problem of inconsistency in our quality assessment programs.

--How can we make the enforcement system strong and fair at the same time?

--Is the solution to create definitions of non-compliance that are used throughout the country?

--I know it's a difficult issue, but wouldn't you agree it's a problem that must be solved?

## ANSWER

- ▶ An enforcement system must be fair in order for it to be strong. The law requires the Secretary to specify the criteria for determining when and how each of the enforcement remedies is to be applied, including the amounts of any civil money penalties.
- ▶ The nursing home enforcement regulations will provide a vehicle to promote national consistency. Inconsistency, to the extent that it is a problem and not just a reflection of specific circumstances, will be diminished through the standardization of the circumstance for implementing enforcement remedies. To further improve consistency in our quality assessment program, we envision conducting extensive training for long term care surveyors.

## QUESTION 7

I think there is a lack of timely and meaningful data on long term care residents and the outcome of their care. It seems to me that the 1987 legislation's requirement for assessing resident needs and developing a comprehensive plan could provide the core of a real data base, if this information were computerized.

--Would you agree that computerization is essential, and if so, how would you propose to pay for it?

--Do you have any thoughts about electronic claims processing and other ways technology could be used to make Medicare and Medicaid more efficient?

## ANSWER

- ▶ I agree that computerization of this data could be extremely helpful. HCFA recently published a proposed rule soliciting public comment on the desirability of collecting this data at the Federal level.
- ▶ At this time, several States have already developed resident assessment data bases and are beginning to study issues such as how to use the data to target potential resident care problems during a survey, to schedule surveys, to tailor survey team composition (for example, scheduling a pharmacist to participate in a survey if it appears that a facility is using a high proportion of psychoactive medications).
- ▶ Regarding funding, we are currently exploring various options to fund computerization. I am hopeful that Medicare and Medicaid funds will be available for this initiative.
- ▶ Computerization of the health care system nationwide, public and private, is essential for efficiency and cost containment. HCFA has played a leadership role in moving the health care industry toward a totally electronic claims environment through implementation of various claims processing and other initiatives.
- ▶ I fully support further efforts in this area, particularly the Medicare Transaction System, which will reduce administrative costs; provide greater ability to use new technologies and alternative payment methodologies; and improve uniformity, standardization, and control of benefit payments.



## QUESTION 8

The President has expressed a degree of support for the use of Medicaid waivers to help Governors deal with straining budgets. I'm concerned about their effect on the nursing home quality reforms of 1987.

--Do you feel that the waiver process could jeopardize the significant steps we've taken in the area of quality?

--If so, what do you plan to do to address it?

## ANSWER

- ▶ First, any waivers approved will not affect the degree of oversight and certification of quality in nursing homes. HCFA has specific regulations that must be followed to ensure quality in nursing homes. All States have agreements with HCFA for onsite surveys to ensure that Medicare and Medicaid quality requirements are met.
- ▶ Currently, HCFA is conducting a nationwide evaluation of its quality survey and certification process. We will assess current procedures and processes and look for ways to improve our system. Let me assure you that States would not be given any leeway that would compromise current quality standards.
- ▶ In the Fall of 1993, HCFA plans to fund a waiver demonstration project mandated by Congress. The six State "Multi-State Nursing Home Case Mix Payment Demonstrations" would pay nursing homes through a prospective payment system for both Medicare and Medicaid. An added feature is the collection of information from newly designed payment and quality monitoring systems. The six States are South Dakota, Maine, Kansas, Mississippi, Texas and New York.
- ▶ The demonstration's quality assurance system will be an enhancement or supplement to the existing system in each State. This information will help State quality assurance survey teams with additional information on potential problems in nursing facilities.

## QUESTION 9

This is my last question, Dr. Vladeck. In recent years, we've heard a good deal about the benefits of continuous quality improvement and total quality management programs. The philosophy underlying them is based on customer-driven management and process improvement, not on traditional inspection techniques.

--Do you think this is a model that government needs to move toward in order to meet the needs and satisfy the expectation of the American taxpayer?

## ANSWER

- ▶ HCFA has made a significant investment in total quality management and is moving to implement this program throughout the agency. TQM is certainly a program with much potential and has been shown to increase quality, productivity, and customer satisfaction in many settings.
  - ▶ I am always receptive to new and better ways to serve HCFA's main customers -- the Medicare and Medicaid beneficiaries. To the extent that TQM improves HCFA's quality and productivity, it will help us better serve the needs of our beneficiaries, improve our relations with providers, and meet the expectations of taxpayers for the efficient operation of the Medicare and Medicaid programs.
-

## Answers to Outline of Information Requested of Nominees

## A. BIOGRAPHICAL

1. NAME: Rufus Yerxa
2. ADDRESS: 6312 Newburn Drive, Bethesda, Maryland 20816
3. DATE AND PLACE OF BIRTH: May 6, 1951, White Plains, New York
4. MARITAL STATUS: Married, Barbara J. McSweeney
5. CHILDREN: Son, Gavin M. Yerxa, 5-1/2 years; daughter, Haley Marie, 2-1/2 years
6. EDUCATION:
  - B.A. 1973 University of Washington  
Seattle, Washington
  - J.D. 1976 University of Puget Sound School of Law  
Tacoma, Washington  
-- Cum Laude  
-- Law Review Editor
  - L.L.B. 1977 Cambridge University  
Cambridge, England  
-- Postgraduate degree in international  
and European law

## 7. EMPLOYMENT

1989 - January 1993 Deputy U.S. Trade  
Representative, Geneva, Switzerland

U.S. Ambassador and Permanent Representative to the General Agreement on Tariffs and Trade (GATT), the organization governing world trade. Chief of Mission for 20-member permanent delegation of U.S. Trade Negotiators. Served as U.S. Representative for all regular GATT sessions. A principal U.S. negotiator for Uruguay Round of global trade talks.

1981 - 89 Committee on Ways and Means U.S. House of Representatives

Served in key staff positions, including Assistant Chief Counsel (1987-89) and Staff Director of Subcommittee on Trade (1984-89). Principal legal and policy advisor for international trade matters. Directed work of 10-member subcommittee staff.

Played a major role in enacting Omnibus Trade Act of 1988, U.S.-Canada Free Trade Agreement, Caribbean Basin Initiative and other import legislation.

**1977-81 U.S. International Trade Commission**

Served as legal adviser to Chairman of quasi-judicial federal agency responsible for administering U.S. trade and tariff laws.

8. **GOVERNMENT EXPERIENCE:** All of the above.
9. **MEMBERSHIPS:** Washington State Bar Association; District of Columbia Bar Association
10. **POLITICAL AFFILIATIONS:** Contributed to Brock Adams for Senate Committee, 1986; Contributed to Jim Beall for Congress Committee, 1984
11. **HONORS AND AWARDS:** None
12. **PUBLISHED WRITINGS:** Alberger and Yerxa; Regulation of Foreign Trade, Fordham Corporate Law Institute, 1979 (B. Hawk, Editor).  
  
Yerxa and Bolton; A Congressional Perspective on the Implementation of Legislation; Chapter 3 in Bello and Holmer, A Guide to the U.S. Canada Free Trade Agreement (Prentice Hall, 1990).
13. **SPEECHES:** As Deputy U.S. Trade Representative during the period 1989-93, I made dozens of speeches to announce U.S. policy in GATT and Uruguay Round matters. These speeches were often made pursuant to instructions drafted in Washington and reflected then-existing administration policy.  
  
I made relatively few written speeches in which I expressed views of a personal nature. Those speeches are attached.  
  
In my official capacity with the Committee on Ways and Means I made numerous appearances before trade associations, conferences and seminars to describe the work of the Committee and discuss pending issues. These were not written speeches.
14. **QUALIFICATIONS:** Sixteen years Government experience in both administering and writing U.S. trade law. Four years as U.S. Representative to GATT. Extensive knowledge of U.S. trade law and trade policy, international trade negotiations, and legislative implementation procedures.



United States

**Office of Government Ethics**

1201 New York Avenue, NW., Suite 500

Washington, DC 20005-3917

MAY 7 1993

The Honorable Daniel P. Moynihan  
Chairman  
Committee on Finance  
United States Senate  
Washington, DC 20510-6225

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Mr. Rufus H. Yerxa, who has been nominated by President Clinton for the position of Deputy United States Trade Representative.

We have reviewed the report and have also obtained advice from the Office of the United States Trade Representative concerning any possible conflict in light of its functions and the nominee's proposed duties.

Based thereon, we believe that Mr. Yerxa is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

A handwritten signature in dark ink, appearing to read "Stephen D. Potts", is written over a horizontal line.

Stephen D. Potts  
Director

DEPUTY UNITED STATES TRADE REPRESENTATIVE  
EXECUTIVE OFFICE OF THE PRESIDENT  
WASHINGTON, D.C. 20508

May 20, 1993

The Honorable Daniel P. Moynihan  
The Honorable Donald W. Riegle, Jr.  
Senate Dirksen Office Building  
Washington, D. C. 20510-6200

Dear Chairman Moynihan and Senator Riegle:

I wanted to respond to the question posed during my confirmation hearing on May 20 about the nature of any possible post-government employment I might undertake. In particular, Senator Riegle expressed concern that U.S. negotiators might, through their representation of foreign clients, compromise U.S. economic interests.

I have been a public servant for my entire career, serving nearly 20 years in various positions in the executive and legislative branches. This service has included four years as legal advisor at the International Trade Commission, nine years on the staff of the Committee on Ways and Means, and four years as Deputy U.S. Trade Representative representing the United States in the GATT.

I would hope that this record of public service demonstrates my profound sense of loyalty to this country and to the safeguarding of its vital national interests. I would never engage in any activities after leaving government which might have the effect or appearance of compromising those interests.

To be quite honest, I have given little thought to my career beyond government service. My actions however, would clearly be guided by a desire to preserve the public trust and by the post-government restrictions contained in federal law and in President Clinton's Executive Order 12834 of January 20, which will apply to me if I am confirmed.

Generally, these restrictions would prohibit me from ever lobbying on behalf of a foreign government or foreign political party before Congress or any executive agency. In addition, for five years, I could not represent, aid or advise a foreign government, foreign political party or foreign company in an attempt to influence an official action of the executive branch. Finally, I could not contact my agency on behalf of any person, foreign or domestic, for five years.

President Clinton has set a high ethical standard for his appointees. I believe these standards are important in ensuring that no member of the administration would take advantage of special knowledge or contacts gained through government service to the detriment of important national interests. I intend to abide by the letter and spirit of these high standards. I would hope that these standards would be followed by all officials in both the executive and legislative branches of government.

Sincerely,

*Rufus Yerxa*  
Rufus Yerxa